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POLITICAL INFLUENCE AND THE COMMANDER IN CHIEF:
CONGRESS, THE PRESIDENT, AND WAR POWERS

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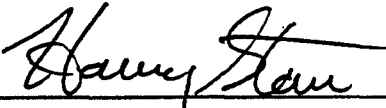
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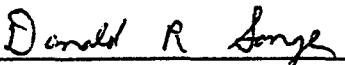
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To my wife and my two boys, who think all dads work at the library on weekends.

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Abstract

This project brings aspects of international relations and American politics together in an examination of war powers politics between the president and Congress. My specific research question stems from an observation on the familiar constitutional separation of war powers. Congress is supposed to declare or authorize wars, the president is supposed to direct the overall war effort and protect the nation from attack. Yet, armed attacks against the United States are historically rare, as are declarations of war and congressional authorizations for the use of force. What is not rare, however, is the actual use of military force. American troops have been deployed into combat situations hundreds of times in the nation's history. Thus emerges a basic puzzle: given the constitutional framework, and institutional incentives of the executive and legislative branches, does war powers control in fact reside with Congress? More directly, does Congress have any meaningful war powers?

I frame the congressional-presidential relationship in principal-agent terms, and suggest that the president's unilateral authority and ability to control the war powers agenda largely relegates Congress to a position of indirect influence. I test for evidence of congressional influence in two areas: the initial decision to employ military force and the factors affecting the duration of military operations. I then examine the political and situational factors that influence Congress to confront the president through war-related hearings.

While evidence does not point to a direct congressional role in the war powers arena, results indicate that a long-term, more indirect form of congressional influence may exist in such areas as economic aid, permanent troop deployments, and potential

presidential consultation with congressional leaders. Framed against the background of the 2006 midterm elections, this study suggests that scholars and other observers may do well to focus less on direct constraint, and instead turn their attention to the broader ways in which Congress responds and influences the president.

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CHAPTER ONE

INTRODUCTION TO WAR POWERS POLITICS

The following five statements from the Congressional Record reflect the policy positions of various individual members of Congress, as expressed on the floor of either the Senate or the House of Representatives.

Surely it cannot be argued that the President is given a blank check to draw upon all of the military power of this nation, to use as he wills, until he leaves that office. Surely this would not be a responsible, wise management of government powers.¹

In the light of the foregoing circumstances, it appears clear that an honest statement of the question would require it to be rephrased as follows: "why did the president of the United States, contrary to the Constitution, order the United States armies to war?"²

But historically, it has been the experience in this country to watch its presidents dominate the direction taken by the United States in cases involving international hostilities.³

Today, Americans face the crisis in the ...with a unanimity of resolve and of purpose. Yet, even when dealing from a position of political strength, [the president] has not involved Congress in any meaningful way to set the course of U.S. policy.⁴

¹ Congressional Record, March 18, 1968, 6767 (the speaker is Representative Paul Findley, concerning the Vietnam War, specifically the events surrounding the Tonkin Gulf Resolution, and the responsibilities of Congress).

² Congressional Record, January 10, 1952, 99 (the speaker is Representative Thomas Werdell, concerning the Korean War, specifically President Truman's usurpation of the war declaration power).

³ Congressional Record, February 9, 1984, 2622 (the speaker is Representative Tom Daschle, concerning the War Powers Act. Excerpts from a speech read on the floor of the House by Representative Byron Dorgan).

⁴ Congressional Record, Sept 11 – 21, 1990, 25205 (the speaker is Senator Alan Cranston, concerning Operation Desert Shield, the buildup of troops in Saudi Arabia in response to the Iraqi invasion of Kuwait).

I do not mean to raise the question whether Congress might not have declared war for such a cause, according to the laws of nations; but I do mean to assert that the *President* could not do it, without *rank treason* to the constitution.⁵

Since all of the speeches address the same policy area, and put forth the same general argument, one could easily assume they stem from, if not the same debate, at least the same specific political situation. However, once informed that the quotes are all from different episodes and periods in American history, the reader now faces the difficult task of trying to place them in the appropriate era. The language, perhaps, provides a few hints, although each generation has its more and less florid speakers. In the end, one is left to conclude that each offering seems to resemble the next, with no obvious historical ordering to be had.

These brief excerpts from the congressional record are not presented as the final word, or even the most prevalent position, on the issue of war powers. They do, however, point to an interesting phenomenon within American politics. Each speaker emphasizes the same problem: the extraordinary autonomy of the president in foreign affairs, specifically the decision to employ United States military force. To an observer of contemporary American politics in late 2006, such arguments are nothing new. One finds them throughout the current political discussion of wars in Afghanistan and Iraq. What may be less obvious in the existing conversation, however, is the *timeless* nature of the war powers argument.

Consider the following description of a typical political interaction in the war powers arena:

The Senate attached the authorization to the House bill, and the House after first balking accepted it...The House objected...because the wording

⁵ Congressional Globe, 1848, 214 (the speaker is Representative J.D. Roman of Maryland, concerning the War with Mexico).

gave the President unconstitutional power to start a war. But the combination of administration and maneuvering and reassurances, the press of other legislative concerns, and most all the President's personal prestige...served to stifle congressional objections. Only later...did Congress understand fully that it had given the President permission to wage war on his own authority (Kohn 1991).

Given the increased focus on war powers during and following recent periods of armed conflict, this excerpt could well portray the political relationships surrounding Vietnam, Kuwait, Iraq, or a host of more minor uses of force in the past decades. Except that the passage does not describe the Persian Gulf Resolution, the Tonkin Gulf Resolution, or even the last century. Instead, the author addresses the interaction between President Washington's administration and the very first Congress, involving a 1789 request for broad authority to pursue military action against Native American tribes, less than six months after the ratification of the Constitution. It seems, then, that we have been arguing about this issue from the beginning.

In the pages that follow I join the argument, examining from a broad perspective the struggle over war powers in the United States. The topic has produced a recent burst of scholarship, no doubt coinciding with the highly visible, and controversial, military operations in Afghanistan and Iraq (e.g., Meernik 2004; Feaver and Gelpi 2005; Howell and Pevehouse 2005, forthcoming; Kriner 2005). And no wonder, for war powers politics offers a compelling arena for studying a variety of political phenomena, running the conceptual gamut from American politics to international relations. For instance, regarding the primary institutional actors in American democracy, arguably no other issue area raises as many historically persistent questions about ultimate political control. Regarding fundamental questions of individual liberty and the coercive power of the state, arguably no other issue affects so many citizens at such a basic level. And all this

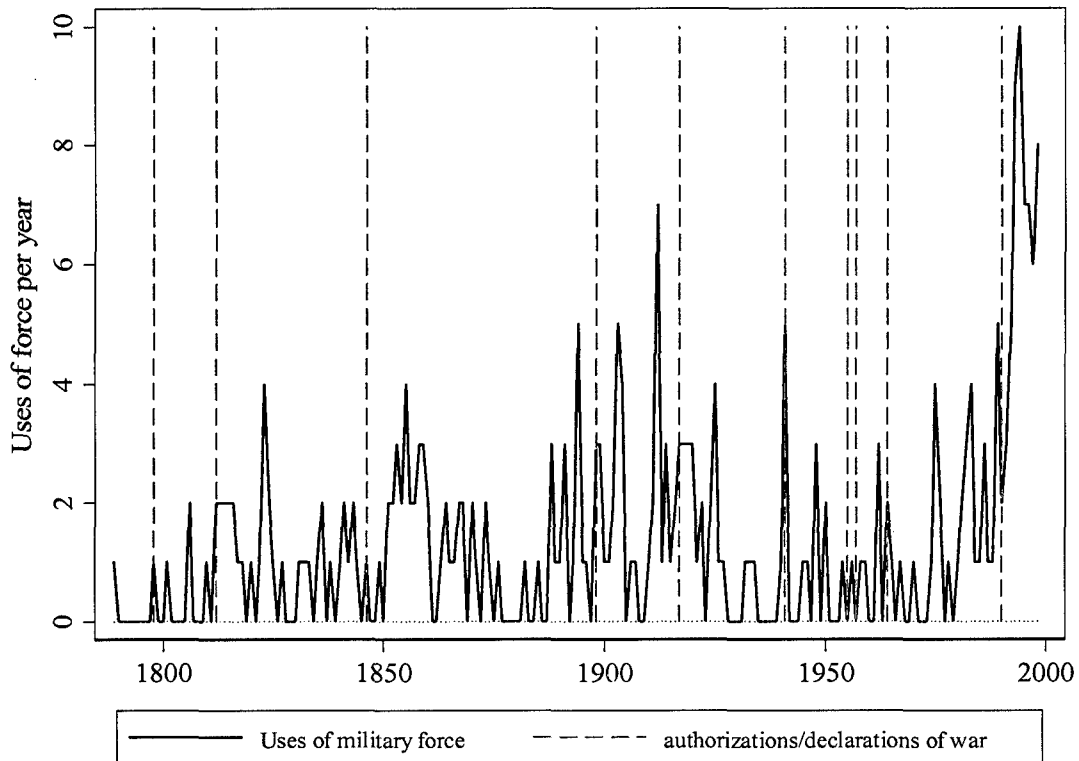
with relatively little change to the original constitutional framework shaping this conflict.

Indeed, my specific research questions stem from an observation on the familiar constitutional separation of war powers. Under the declaration clause in Article 1, Section 8, Congress maintains explicit constitutional authority to declare war, and at least implicit authority for all non-defensive military force issues. The president, as assigned by Article 2, Section 2, is the commander-in-chief, thus holding implicit responsibility for defending the nation from attack. Yet, armed attacks against the United States are historically rare, as are declarations of war and congressional authorizations for the use of force. What is not rare, however, is the actual use of military force. Figure 1.1 displays the number of military uses of force per year from the ratification of the Constitution in 1789 through 1998, as well as the number of times Congress has either declared war or explicitly authorized the use of armed force. Following this, Table 1.1 briefly describes each of these declarations or authorizations of the use of force.

As the figure demonstrates, American troops have been deployed into potentially hostile situations hundreds of times in the nation's history.⁶ Thus emerges a basic puzzle: given the constitutional framework, and institutional incentives of the executive and legislative branches, does Congress in fact maintain a say in the war powers debate? A contemporary observer might well take one of two positions. A cynical response, given the high number of incidents without congressional authorization, might claim, "No, Congress has lost control." A more optimistic viewpoint might reference the 2006 midterm elections, in which voters rewarded Democratic promises to challenge the president by returning total control of Congress to the party for the first time in 12 years.

⁶ See Grimmett (2004), who reports over 300 uses of force.

Figure 1.1 Historical Uses of Military Force
(Declarations of War and Authorizations of Force)



A related set of questions arises if we conceive of the war powers conflict in principal-agent terms, particularly the president's significant power to act unilaterally. Specifically, can Congress, given its significant collective action problems and information asymmetries, constrain the president's behavior in any meaningful way? If so, the legislative branch must deal with the familiar contractual and enforcement problems that accompany any delegation of discretionary power, as well as a more basic dilemma: what kind of role does it really want? While voices in the institution regularly clamor for the president to recognize the institutional war powers legitimacy of Congress, the practical record of the body, in terms of confronting the president, is less impressive. If Congress really seeks to claim a meaningful role (Meernik 1995), one should observe certain efforts to maintain control or influence over the president. This study examines

Table 1.1 Declarations of War and Authorizations for the Use of Military Force
Source: Ackerman and Grimmatt 2003

Year	Situation	Vote(s)
1798	March 19: President Adams requested Congress take various steps to protect American commerce and sailors, including authorizing the president instruct U.S. commanders to act against "French vessels" (signed May 28 & June 9)	
1812	June 1: President Madison asked for a declaration of war against Great Britain (signed on June 18)	H: 79 – 49 S: 19 – 13
1846	May 11: President Polk asked for a declaration of war against Mexico (signed May 13)	H: 174 – 14 S: 40 – 2
1898	April 25: President McKinley asked for a declaration of war against Spain (signed April 25)	H: voice vote S: voice vote
1914	President Wilson asked for approval to use force against Mexico in response to the arrest of several Americans (<i>Not in Figure 1.1</i>)	H: 337 – 37 S: 72 – 13
1917	April 2: President Wilson asked for a declaration of war against Germany (signed April 6) December 4: President Wilson asked for a declaration of war against Austria-Hungary (signed December 7)	H: 373 – 50 S: 82 – 6 H: 365 – 1 S: 74 – 0
1941	December 8: President Roosevelt asked for a declaration of war against Japan (signed December 8) December 11: President Roosevelt asked for a declaration of war against Germany (signed December 11) December 11: President Roosevelt asked for a declaration of war against Italy (signed December 11)	H: 388 – 1 S: 82 – 0 H: 393 – 0 S: 88 – 0 H: 399 – 0 S: 90 – 0
1942	June 2: President Roosevelt asked for a declaration of war against Bulgaria (signed June 5) June 2: President Roosevelt asked for a declaration of war against Hungary (signed June 5) June 2: President Roosevelt asked for a declaration of war against Rumania (signed June 5)	H: 357 – 0 S: 73 – 0 H: 360 – 0 S: 73 – 0 H: 361 – 0 S: 73 – 0
1955	January 24: President Eisenhower asked Congress to authorize the use of force to defend Formosa (signed January 29)	H: 410-3 S: 85-4
1957	January 5: President Eisenhower asked Congress to authorize the use of force to counter potential communist threats in the Middle East (signed March 9)	H: 350-60 S: 72-19
1964	August 5: President Johnson asked Congress to authorize the use of force in responding to North Vietnam activity, specifically the naval engagement in the Gulf of Tonkin (signed August 8)	H: 416-0 S: 88-2
1990	January 8: President George H.W. Bush asked Congress to authorize the use of force to implement U.N Security Council Resolution 678 to evict Iraqi forces from Kuwait (signed January 14).	H: 250-183 S: 52-47
2001	September 12: President George W. Bush asked Congress to authorize the use of force against the parties responsible for the September 11 attacks on the United States (signed September 18) (<i>Not in Figure 1.1</i>)	H: 420-1 S: 98-0
2002	September 19: President George W. Bush asked Congress to authorize the use of force against Iraq and "to restore international peace and security in the region" (signed October 16). (<i>Not in Figure 1.1</i>)	H: 296-133 S: 77-23

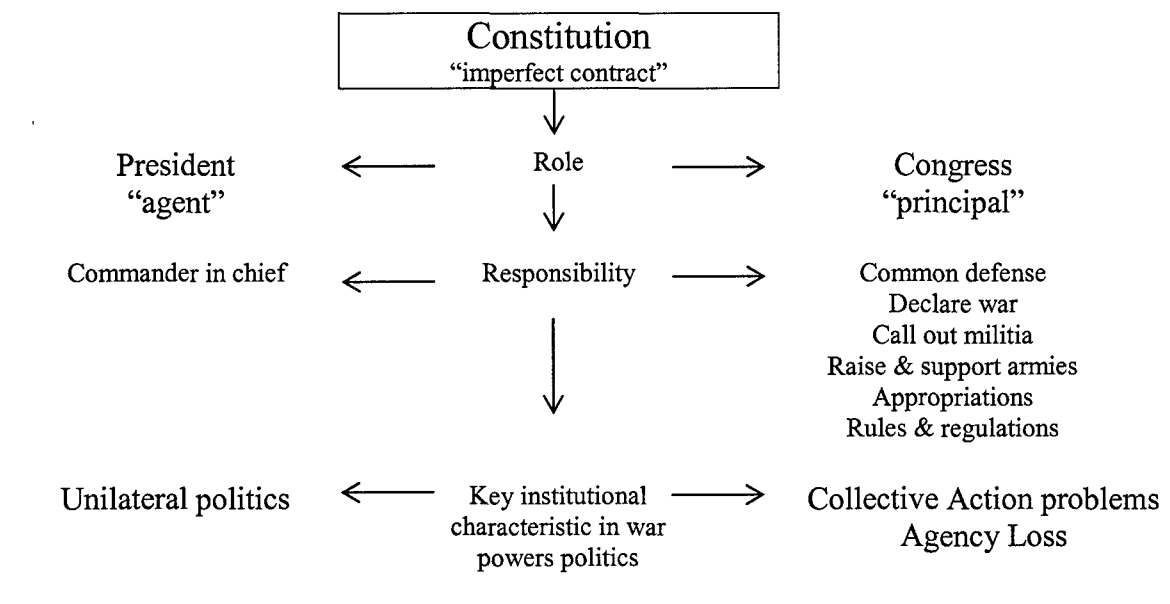
both whether such efforts affect the initiation and duration of military operations, and what factors determine when, and if, Congress is willing to confront the president.

Conceptual Framework

In the next chapter I introduce more fully the incentives and institutional constraints on the president and Congress in the area of war powers. For now, however, Figure 1.2 depicts the basic parameters within which this political contest occurs. This framework begins with the Constitution: the “imperfect contract” between political actors in American government. Among the remedies to the failed Article of Confederation, the founders divided political power between the executive and legislative branches. In the area of war powers this entailed assigning most responsibilities, including the declaration of war, to Congress, while the president was designated the Commander in Chief. I elaborate in the next chapter on the purposeful nature of the founders’ design for the war powers relationship, especially the desire to balance control and effectiveness.

As Figure 1.2 indicates, however, the particular assignment of responsibilities carries with it certain costs that the founders may or may not have intended. Most significantly, the Congress suffers significant collective action problems and a fundamental weakness regarding its ability to control the president. As I discuss further in the next chapter, these problems stem not only from the way the Constitution assigns its powers, but also because of the individual and collective incentives of members of Congress. Likewise, the president brings certain political characteristics to the table. Again, these are a combination of both the constitutionally assigned powers as well as the incentives common to the presidency. Figure 1.2 depicts a single primary constitution “power.” As I discuss later, because the Constitution does not explicitly define

Figure 1.2 War Powers Framework



“Commander in Chief,” it subjects the term – and the position – to the selective interpretation of each president. Combined with individual incentives and much lower collective action costs within the presidency, this allows the president to assume increasingly unilateral powers when it comes to deciding when and where to apply military power in pursuit of political goals.

This framework leads to both a tentative conclusion and potential questions. As reflected, the end result is a president able to act unilaterally and a Congress struggling to overcome transaction costs and agency loss. At the same time, it begs at least two questions: first, are there any means by which Congress can try to level the political playing field? Second, if so, what determines the timing under which Congress pursues such means? With the explanatory framework I develop in the next chapter, I proceed to empirically examine three basic aspects of this relationship. Chapter Four tackles the issue of ex ante congressional influence on the war powers relationship. As the next

chapter makes clear, the president's unilateral powers alone seriously reduce the chances of finding a substantive direct congressional impact on the initial decision to use force. As I suggest, however, perhaps we expect too much of an electoral-minded legislature to go against public opinion and its own opportunity costs in order to challenge the president. Perhaps Congress can still find a substantive voice through other constitutional and institutional means. To find out, I examine the effect of more "structural" political tools (Lindsay and Ripley 1993) on the likelihood that the president employs military force given an opportunity to do so.

As Chapter Four addresses *ex ante* influence, Chapter Five examines the effect of congressional action on presidential decisions once the initial choice to employ force has been made. Essentially, I seek to answer whether Congress is able to meaningfully affect the decisions of the president regarding the continued use of military force in a particular situation. Although the Congress controls the "power of the purse" and other potential sources of influence, the prospects are less than encouraging. Again, the agent maintains significant advantages over the principal in terms of its freedom to pursue opportunistic behavior. Even in an ideal contractual environment, the principal faces numerous challenges in monitoring performance and compelling the agent to work toward shared goals. With a vague contract and exceptional unilateral powers in the war powers arena, the president theoretically faces little constraint from Congress. By testing various congressional and domestic political variables against the duration of military operations, I hope to shed light on the president's ability to decide, unilaterally, when to finish what he has started.

Finally, in Chapter Six, I address the question of “when,” and by extension, “why,” Congress acts to confront the president in the war powers relationship. Interestingly, Mayhew (1974) and others suggest that an individual member of Congress choosing to initiate conflict with the president might see such action in terms of defending the legitimacy of the institution. However, individual members almost always foresee greater return from pursuing reelection, and are therefore more likely to free ride on the efforts of others are more willing to bear the costs and sacrifices of pursuing collective action (Olson 1965). In the initial stages after the introduction of troops, however, with public emotion and presidential approval likely running high, only the “Barbara Lees” of the political world⁷ – protected by the juxtaposition of their and their reelection constituencies’ preferences – are apt to stand firm in their resistance to the president.

As for the rest of Congress, until they “receive permission” to turn their attention from constituent service to the military situation, they likely will continue to seek individual benefits. Therefore, I shift the focus in the final chapter to developments likely to provide the political cover members need to confront the president. Among these are public opinion, economic and other domestic political concerns, the relative success of the ongoing military operation, and elections. I examine at what point Congress becomes willing to rouse itself from its accepted role of deference, and strive to reclaim some responsibility for war powers politics.

The study of war and armed conflict, even from a domestic-oriented perspective, finds its most natural academic home within the realm of international relations. Here,

⁷ Barbara Lee, the three-term Democratic Congresswoman from California’s 9th District, famously provided the lone dissenting vote to President Bush’s request for authority to pursue those responsible for the September 11, 2001 terrorist attacks.

however, I propose investigating the relationship between Congress and the presidency regarding the use of American military force as a way of better understanding the relationship between the specifically American legislative and executive branches. Thus I present this work as an "American politics" research design, in the hope of more clearly explaining how specific institutional designs and roles determine the interaction between these two political actors, within the issue area of military foreign policy.

CHAPTER TWO

ROLE WITHOUT RESPONSIBILITY: WAR POWER POLITICS

If the law or the Constitution is ambiguous, you go to the legislative history. The legislative history is ambiguous, the point being that once that happens, you have got to go to what has been practiced (Senate Foreign Relations Committee Print July 14, 1988, 50).

On these sorts of details, the Constitution is silent – giving the president ample room to maneuver (Moe and Howell 1999b, 137).

To understand the politics of the war powers conflict is to appreciate how both the specificity and ambiguity of the Constitution together shape the incentives and ultimate behavior of political actors. This requires looking at the ratified 1789 Constitution in two lights. Retrospectively, from 1789, the document stands as a product of both the immediate three-month effort at Philadelphia, as well as general late-eighteenth-century political and economic experience and thought. Prospectively from the same vantage point, however, the Constitution serves as a reminder that the rules of the game themselves help to determine the strategy by which future participants pursue their desired ends. Therefore, one cannot appreciate the war powers conflict by focusing exclusively on the original constitutional blueprint, but must expand the analysis to include political behavior in light of institutional development.

This chapter presents a framework for understanding war powers politics from an institutional perspective, institutions being the rules and constraints that humans impose on themselves to reduce transaction costs (North 1990). The political environment

surrounding the decision to employ military force contains numerous problems of coordination and information inherent to any collective activity. Therefore, I first discuss how the original constitutional assignment of powers provides both a barrier against misuse of the military, as well as a standing delegation of power to the executive. The vagueness of this initial contract, however, places the legislature on a defensive footing from the start, hindering its ability to constrain the executive. To better understand this, I examine agency theory in general, and focus closely on the president's autonomy and ability to force the political agenda. Congress thus maintains theoretic responsibility for controlling the agent's ex post behavior, but without some of the tools, and perhaps even the incentive, to enforce its principal role.

Constitutional Framework – General Assignment of Powers

Most discussions of war powers begin with the constitutional assignment of two familiar labels of responsibility. Almost immediately, of course, the debate ensues to ascertain the exact meaning of the phrases. But at the most general level, even relatively casual interest suffices to recall that “The Congress shall have Power To...declare War” (art. 1, sec. 8) while “The President shall be the Commander in Chief of the Army and Navy” (art. 2, sec. 2). To this point, there is little disagreement. And I suggest in this section that these broad descriptions of power reflect agreement among the founders as well: the desire to protect individual liberties from what most recognized must necessarily be a stronger national military capability (Kohn 1991).

In contrast to the common argument that the Founders “would almost certainly have been astonished and outraged” by “the tendency of recent American presidents to commit troops to battle without formal permission from Congress” (Collier and Collier

1985, 331), it is quite possible that the Founders would recognize this tendency as an expected byproduct of the Constitution's ambiguity (Adler 1996, Lindsay 1994). After all, in so many areas – slavery, commerce, taxation, representation – the Constitution reflects innumerable decisions to forego working out the messy details in order to achieve an ultimate product; to sacrifice “private opinions and partial interests to the public good” (Madison 1961 [1788], 231). The delegates may have expressed little concern over what specific problems would eventually arise from the Constitution's lack of detail, but they certainly would not be surprised that such problems did occur. The national experiment demanded a ratified Constitution, and that in turn required satisfying delegates and citizens working from sometimes extremely conflicting political perspectives.

Thus, some contentious issues were barely dealt with, while others were omitted altogether, leaving interpretation and institutional development to those future actors destined to struggle within the confines of the Constitution. The war powers problem is no exception. The founders feared standing armies, as well as the prospect of a Cromwellian military dictator (Kohn 1991). The war powers debate, then, both during and after the convention, centered mostly on the dangers of a standing army and the need to place the war-making authority with the legislature.

War Powers and Founders' Intent: Control and Effectiveness

At a very basic level, politics is defined by collective choice: individuals deciding matters of common interest (Stevens 1993). To the “efficiency advocates” of economics, such matters are best decided voluntarily, by rational, informed actors bargaining to secure outcomes that serve the interests of each (ibid). Instead of the predicted efficiency of the economist's idealized marketplace, however, actors in the political arena inevitably

encounter transaction costs. Generally, these costs can be thought of as anything that prevents the actors above from reaching a decision to allocate resources (Epstein and O'Halloran 1999).⁸

Though traditionally understood as an economic phenomenon, transaction costs also prevent political actors from achieving potentially beneficial solutions: "just as in economic situations, these [transactions] may not take place due to the existence of transaction costs" (Epstein and O'Halloran 1999, 44). Such costs permeate familiar political and economic activities, such as gathering accurate information (Coase 1937, Akerlof 1970, Krehbiel 1992), making decisions and voting (Buchanan and Tullock 1962, Riker 1982) and enforcing political agreements and contracts (Shepsle and Weingast 1987, Weingast and Marshall 1988, McCubbins and Schwartz 1984).

Though transaction costs are normally considered in a negative light, they can, at times, benefit political actors. In fact, a historian of the founding era might consider "transaction costs" a less eloquent reference to "contriving the interior structure of the government as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places" (Madison 1961, 320). In other words, the Constitution, as the structure that directs the interaction between various political actors, incorporates transaction costs in order to protect individual liberties. The Constitution itself is not the cost, but rather shapes political dealings so that voluntary exchanges become difficult to achieve, but easy to hinder. While this may at first seem detrimental to agreement, if a particular accord threatens political freedoms, then an

⁸ Coase (1960) more specifically, and famously, defines "the costs involved in carrying out market transactions...it is necessary to discover who it is that one wishes to deal with, to inform people that one wishes to deal and on what terms, to conduct negotiations leading up to a bargain, to draw up the contract, to undertake the inspection needed to make sure that the terms of the contract are being observed, and so on" (Coase 1960 15).

institutional arrangement that prevents or hampers that agreement can be seen as beneficial.

Transaction Costs as a Benefit: Avoiding the Rush to War.

The founders had a two-part dilemma in trying to craft a workable war powers arrangement. The first general concern regarding the entire constitutional enterprise was how to balance the need for a stronger national government with appropriate safeguards for individual liberties. Specific to the military this meant ensuring political control over whatever military capability emerged from the convention. "The very first step," Kohn (1990, 83) points out, "and the most basic provision in the Constitution to control military power, was to place the authority to raise forces...in Congress rather than the President." In other words, it turns out, to build the same transaction costs that can hinder legislative activity into the process for going to war.

Observers have long derided the tendency for political stalemate within the American political system (Sundquist 1988, Cutler 1982).⁹ While not couched in new institutional terms specifically, normative critics of the arrangement often point to the constitutional design of Congress and the separation of powers as sources of the types of transaction costs that cause gridlock. Legislative solutions are often at the mercy of a determined minority (Binder 1997, Sinclair 1997). The president often "cannot achieve his overall program...because he does not have the power to legislate and execute" (Cutler 1982, 138; also see Light 1999; Bond and Fleisher 1990). Such criticism might

⁹ Krehbiel (1996, 7) provides a comprehensive take on stalemate: "bitter partisanship, poor governmental performance, policy incoherence, nondecisions, showdowns, standoffs, checkmate, stalemate, deadlock, and, in the most recent nomenclature, gridlock," or, more innocuously, "policy stability" (Krehbiel 1998, 5). Indeed, the phenomenon has been "common but not constant" (ibid.) from the beginning and stems from numerous sources. Essentially, policy change often fails, despite unified government or similar policy goals between Congress and the president, because of the difficulty in assembling large (or supermajority), bipartisan coalitions. Again, under the Constitution, it is not that difficult to derail a policy favored by a majority of actors.

even consider an eighteenth-century Constitution impractical for twenty-first-century political demands.

However, as Bob Dole famously said while Senate Majority Leader, "if you're against something, you'd better hope there is a little gridlock" (quoted in Safire 1993, 305). Such modern sentiments echo somewhat George Washington's quote concerning the Senate "cooling" the more temperamental House, as a saucer cools coffee (Collier and Collier, 1986, 150), or perhaps Madison's call for each government department to maintain the "necessary constitutional means and personal motives to resist encroachments of the others" (Madison 1961, 321). Each of these observations on governmental inefficiency reflects the benefit of obstacles to rash, impulsive, or overly emotional decision-making, especially in the legislature. The founders placed such obstacles throughout their design for government, meaning that if Krehbiel (1998) is right, that governmental inefficiency has been a factor from the beginning, perhaps Cutler (1983) is also right: blame the Constitution.

And he would be largely correct; as mentioned earlier, the Constitution makes it hard to get things done. But consider this inefficiency and the decision to go to war: perhaps certain things, such as sending a nation's citizens into combat, really should be more difficult to accomplish. Under the Constitution, the legislature has significant war powers: it controls the nation's purse strings, the ultimate design and equipping of the armed forces, and the formal transfer of the nation from peace to war. But it cannot act alone. The executive as well has a formidable constitutional role: commander in chief and overall command of the military when in combat. For the nation to fight a war, then, both houses of Congress must raise and equip armed forces, support them through

appropriations, and, ideally at least, authorize their use in combat, all with the executive's support and overall direction as commander-in-chief. No easy task.

Again, this division of authority is familiar to most students of American government. What is less familiar to the contemporary observer of American military activity is the original effort by the founders' to hinder the rash employment of military force. Despite serious threats from foreign powers in North America, Native Americans along the expanding western border, and periodic insurrections within the states themselves, the founders insisted on the same separation of powers for the nation's war-fighting ability as they did for other policy areas. The insistence on *collective* action between the legislature and executive, then, was intended to ensure that the nation initiated military conflict only following sufficient political soul-searching. Transaction costs within government would protect individual liberty within the citizenry.

Transaction Costs as a Detriment: Managing the Conduct of War

If transaction costs offered a remedy within the Constitution for constraining the use of force, however, the founders also realized that such costs would likely prevent the effective conduct of the war, once that policy was chosen. And this was more than political theorizing. One must remember that many of the delegates to the 1787 convention had immediate, intimate experience with war, as either military officers or members of the Continental Congress during the revolution.¹⁰ They also had witnessed – or participated in – the impotency of the national government's response to Shay's

¹⁰ “[Of]...these fifty-five men [gathered as delegates]...thirty had served in the army during the Revolution, some fifteen had seen serious action, and several were authentic battlefield heroes” (Collier and Collier 1986, 104). “One factor often overlooked, however, is that 23 of the 40 men who signed the Constitution had served in uniform during the Revolutionary war...had volunteered to fight for independence, had sacrificed and suffered to win the war, and then, with their fellow Patriots, had shed their uniforms to resume civilian careers” (Wright and MacGregor 1992, 3).

Rebellion only months prior to the Philadelphia convention. Either experience provided ample evidence that a legislature – even if the new legislature was to be part of a strengthened national government – was not the body in which to place responsibility for *conducting* war.

The second dilemma, then, that the delegates faced was their concern that this same military they worried about controlling would be able to function efficiently when called upon. George Washington's frustration with Congress during the war famously drove him directly to the states to request resources for continuing the fight against the British (Ellis 2004).¹¹ And though the record of deliberation is meager on this important issue, Charles Pinckney apparently spoke for many at the Constitutional Convention by pointing out that legislatures were, as a rule, too large and "slow" for such responsibility. *The Federalist Papers* echo these sentiments, as in Hamilton's *Federalist* 74 argument that "the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand" (Hamilton 1961[1788], 447).

Today, of course, Congress provides regular examples of the difficulty of acting collectively, as well as such institutional mechanisms as committees, political parties, and institutional maintenance (Mayhew 1974), designed to overcome these problems. To the founders, however, the potential price of collective action problems in managing a war was simply too great to leave to chance. Unlike the development of committees or political parties, which came after – and either in spite of, or as a response to – the constitutional design, the framers purposefully inserted the solution alluded to by Hamilton: delegation to the single hand of the president: "the direction of war implies the

¹¹ The Continental Congress during the Revolutionary War had no authority to compel states to support the conflict in any way, and was reduced to requesting men and supplies and appointing generals (and then only if all states agreed) (Kohn 1991, 61-94).

direction of the common strength; and the power of directing and employing the common strength forms a usual and essential part in the definition of executive authority” (Hamilton 1961[1788], 447).

The final days of the 1787 convention, therefore, involved the search for a balanced approach to war powers, between the legislature – less likely to rush into war but also less able to direct war once commenced – and the executive – too dangerous to trust with initiating war, but the necessary focus when war arises. The founders’ solution, as predictably nebulous as other constitutional directives, is our nearly 220-year-old “invitation to struggle” between the war-declaring, army-raising legislature and the commander-in-chief executive.

War Powers and (Perhaps) Unintended Results: Standing Delegation and Agency Loss

Rather than simply separated institutions sharing authority and political power (Neustadt 1960) on an essentially level structural foundation, however, the Constitution imposes a standing delegation of authority from the legislature to the executive in order to respond to emergencies and formally declared war. As mentioned, delegation effectively remedies many collective action problems (Kiewiet and McCubbins 1991, Epstein and O’Halloran 1999), and reflects the founders’ desire to balance efficiency with control. The basic constitutional message, then, makes clear that “the power over perfect and imperfect wars...would remain with the U.S. Congress” (Fisher 2004, 3),¹² while the president would maintain “the supreme command and direction of the military

¹² “Perfect” refers to general war formally *declared* by Congress, while an “imperfect” war is merely authorized (Fisher 2004, Adler 1996). During the 1798-1800 undeclared conflict with France, the Supreme Court twice affirmed the power of Congress to authorize war through formal (perfect) or informal (imperfect) means.

and naval forces” (Hamilton 1961[1788], 418).¹³ Congress declares war, and the president commands the war effort; Congress authorizes and the president executes.

When Moe (1984, 766) suggests “the whole of politics is...structured by a chain of principal-agent relationships, from citizen to politician to bureaucratic superior to bureaucratic subordinate and on down the hierarchy of government,” one assumes those relationships are purposefully designed. In other words, the principal consciously decides to disperse power throughout an organization to achieve gains from specialization and the expertise of others (Kiewiet and McCubbins 1991, Miller 1992), or avoid inefficiencies, such as those found in committees (Epstein and O’Halloran 1999). For instance, Congress may deliberately delegate “its own power to regulate an aspect of interstate commerce to an administrative agency designed especially for the purpose” (Lowi 1979, 95). The president, of course, can create agencies as well (Howell and Lewis 2002, Moe 1993), but a typical process in American politics involves Congress developing broad legislative guidelines, and either creating or enhancing a corresponding bureaucratic agency to administer the new or expanded program (Meier 2000).

But not with war powers. Under the Constitution, discretionary authority is, at least implicitly, already assigned to the executive in Article 2: “The President shall be the Commander in Chief.” Unlike a traditional principle, then, Congress does not have the ability to respond to each use of force opportunity by considering and hiring a new agent, with the specific skills and expertise to best handle the particular crisis. Congress cannot

¹³ Hamilton’s *Federalist* 69 argument further contrasts the executive powers of the proposed American president with those of the English monarch: “The President will have only the occasional command of such part of the militia of the nation as by legislative provision may be called into the actual service of the Union. The king of Great Britain...[has] at all times the entire command of all the militia...[the authority] of the British King extends to the declaring of war and to the raising and regulating of fleets and armies – all which, by the constitution under consideration, would appertain to the legislature” (Hamilton 1961[1788], 417-418).

seek an exceptionally loyal or capable expert in this area, because the contract – the Constitution – specifies who the war powers expert shall be in every case.

This is a potential problem. Principals often attempt to lessen the information asymmetry between themselves and their hired agents by specifying certain rules, incentives, and performance criteria to which the agent must adhere. However, only the potential agent truly knows how “expert” he or she is, and how hard he or she will work in pursuit of the principal’s goals. This information disadvantage, the problem of adverse selection, shifts significant relational power to the agent from the very beginning. Under the war powers arrangement, the principal is denied its “screening and selection” remedy for reducing adverse selection (Kiewiet and McCubbins 1991), and must make the best of having an opportunistic agent that it did not in fact “hire.”¹⁴ Practically speaking, adverse selection problems loosen any ex ante control the principal may hope to have and emphasize the reactive ex post monitoring of a principal on the defensive.

Of potentially greater concern than adverse selection in the war powers relationship, however, is the dilemma concerning the agent’s actual job performance. The problem for the principal, once expectations are established, then becomes ensuring that the agent meets its obligations. This dilemma of moral hazard essentially extends the information asymmetry between principal and agent from the initial hiring process to the

¹⁴ There are opportunities for Congress to accept or reject certain important leaders within the Department of Defense, however. Most obviously, the president’s nominee to lead the department faces congressional scrutiny via the constitutional “advice and consent” role accorded the Senate. This does not strictly address the problem of adverse selection, since the ultimate agent is the president, not his Secretary of Defense, but the process does provide a limited opportunity for Congress (but only the Senate) to at least express its concerns regarding potential agency slack associated with a particular nominee. Famously, former Senator John Tower was denied the opportunity to serve as President George H.W. Bush’s Secretary of Defense in 1988, a decision supposedly guided by concerns over Tower’s social behavior and connections to defense contractors, as well as President Bush’s campaign treatment of Michael Dukakis. Certainly this episode reflects a collective statement of sorts, at least by the Democrat-dominated 101st Senate, although the myriad reasons for individual votes cloud the message somewhat. And many argue that the Senate gives the president wide latitude when it comes to confirming nominees, particularly top officials appointed early in an administration (Oleszek 2001, McCarty and Razaghian 1999).

day-to-day job performance of the agent. Despite the rules and incentives established by the principal at the outset to control the agent's performance, there is little to prevent the agent from diverting part of his or her effort toward opportunistic behavior, and away from the collective goal. So, a shoemaker may doze off on the job (Stevens 1993), a worker loading cargo may lift less than his partner (Alchian and Demsetz 1972), or a congressman may miss votes (Lott 1987) or kite checks at the House bank (Parker 1996). Similarly, a president may choose to employ military force on his own, despite a contract that seems to specify that the principal has the responsibility to make such a decision.

Remember, though, eighteenth century political expedience, and the need to balance political control with situational effectiveness, led to an incomplete contract, the Constitution, which grants little *ex ante* maneuverability to the principal. The imposition of standing delegation means the principal, Congress, is unable to create situationally specific contracts to structure the behavior of the agent in each war powers episode.

Ideally,

The design of an efficient incentive structure [involves] the development of monitoring systems as well as mechanisms for inducing the agent to reveal as much of his privately held information as possible...a contractual framework [must prompt] the agent to behave as the principal himself would under whatever conditions might prevail (Moe 1984, 756-757).

Even with a vague existing contractual framework, though, Congress must still attempt to solve the problems of unobservability on which adverse selection and moral hazard rest. The weakness of the principal's position, of course, stems from the fact that both actors acknowledge the same basic contract, the Constitution, but disagree fundamentally on the specific binding nature of the incentive structure. And those contractual shortcomings

not only hinder the principal's prospects for control, but, as we see next, also provide the agent with strong incentives to strike out on his own.

Presidential Opportunism and Unilateral Politics

The description so far, of a constitutional framework in which the power to conduct war is delegated to the executive, explains little by itself of the agency loss seemingly inherent to the relationship. After all, Congress deals with numerous executive agencies, and the relevant literature describes a variety of tools by which the legislature-as-principle seeks to control its agents. (McCubbins and Schwartz 1984; McCubbins, Noll, and Weingast 1987; Calvert, McCubbins, and Weingast 1989; Ferejohn and Shipan 1990). If Congress can control – or at the very least has a strong potential of influencing – executive agencies in other policy areas, what about this particular issue proves so challenging for the legislature? Recent scholarship argues that the president holds important unilateral powers, which make it even harder for the Congress to assert itself. This section describes this unilateral power in general, leaving the following section to discuss its application to the specific area of war powers.

William Howell (2003, Moe and Howell 1999a, 1999b) adapts Krehbiel's (1998) pivotal politics model to produce a "general model of unilateral politics," in which presidents use their "first-mover advantage" (see also Mayer 1999) to "shift policy in any way they wish...[where] it will stay, until and unless either Congress or the Courts effectively respond" (Howell 2003, 26). Though not absolute, and subject to important strategic considerations, the presidents' "hold on the executive functions of government gives them pivotal advantages in the political struggle...they have strong incentives to push for expanded authority by moving into grey areas of the law asserting their rights,

and exercising them – whether or not other actors, particularly in Congress, happen to agree” (Moe and Howell 1999, 856). Howell (2003) cites the Louisiana Purchase, the Emancipation Proclamation, and the creation of the Peace Corps as landmark examples of unilateral politics.

Moe and Howell (1999) argue that the Constitution’s separation of powers, purposely designed to protect liberty by ensuring frequent “within the framework” power struggles, also makes conflict “over the framework” likely. Particularly where the Constitution assigns or implies responsibility without clear specification, political actors find “strength and resilience from the ambiguity of the contract” (Moe and Howell 1999, 134). Kiewiet and McCubbins (1991) point out that agents help drive institutional development by seeking loopholes in their contracts. And, in contrast to the fairly specific legislative powers enumerated in Article I, the constitutional power of the executive branch is marked by such hazy terms as “commander in chief” and phrases such as “take care that the laws be faithfully executed,” not to mention the nebulous “executive power” itself.

Howell (2003) suggests that the unilateral power of the president depends largely on the amount of discretion assigned by Congress and interpreted by the judiciary. Where discretion is small, the president’s unilateral powers are limited. So when Congress writes specific laws, assigning carefully defined responsibility to executive agencies, and cumulative judicial opinion clearly identifies the point at which agency action approaches or crosses the line of constitutional legality, presidents are more constrained. There is not as much room in which to maneuver, because Congress and the courts have clearly marked the boundaries of acceptable political behavior. In such

cases, legislative models (Krehbiel 1998, Brady and Volden 1998) predict gridlock and argue that “change requires that the status quo must lie outside the gridlock interval, as defined by the president, filibuster, and veto pivots” (Krehbiel 1998, 47).

The spatial models employed by Krehbiel (1998) and Howell (2003, Moe and Howell 1999) approach the presidential-congressional relationship with similar assumptions and conditions. Both models depict a unidimensional policy space, single-peaked preferences for legislators and the president, and pivot points representing the supermajoritarian filibuster and veto procedures (see Krehbiel 1998, 21-24, Howell 2003, 28-29). In addition, the models assume complete information among the participants, as well as an exogenously determined status quo.¹⁵ The unilateral politics model (Howell 2003) also assumes the president moves first, and includes a judiciary as well as the discretion parameter, mentioned above, that defines the distance the president may unilaterally shift policy. As we will see, the “first mover” assumption holds important implications for presidential war power.

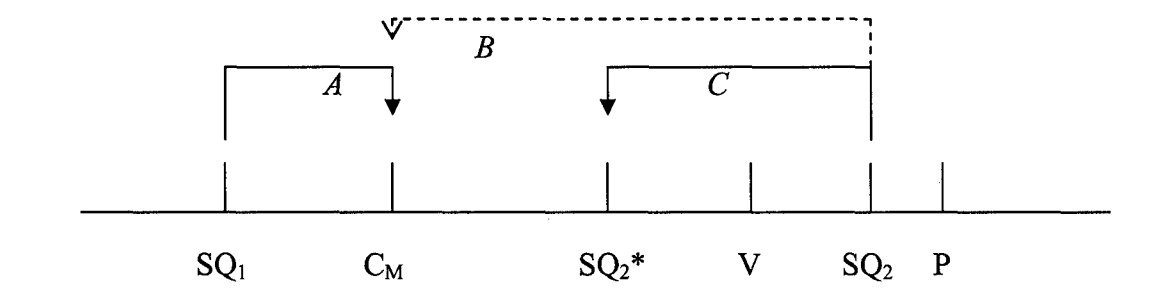
Legislative Politics

For now, however, the simple legislative politics model in Figure 1 helps demonstrate the tendency for policy to remain “stuck” within a limited range of potential positions. In the figure, ideal policy points are arrayed along a spectrum, with two hypothetical status quo policies (SQ₁ and SQ₂). C_M represents the median member of Congress, while P represents the president. V represents the veto-pivot, or the member who can enable Congress to override or sustain a presidential veto depending on which way he or she votes. As displayed, policy outcomes will favor the median member of

¹⁵ Moe and Howell (1999) acknowledge up front that the perfect information requirement has little place in foreign policy, an important concession that I discuss in greater detail below.

Congress (C_M). For instance, imagine a hypothetical status quo at SQ_1 , to the left of all players involved. In this case, Congress simply shifts policy (A) to the preference of C_M . The president accepts this new policy, since it is closer to his preference than was the original status quo.

Figure 2.1: Legislative politics model (Moe and Howell 1999)



If, on the other hand, the hypothetical status quo sits at SQ_2 , Congress will again seek to shift the policy (B) closer to C_M . Such a move would normally guarantee a successful presidential veto, since C_M is further from the veto pivot than SQ_2 . However, by instead shifting policy (C) to a point at which V is indifferent between SQ_2 and SQ_2^* , Congress deprives the president of the legislative support necessary to maintain his preferred policy point. A president working within such a system will likely spend available political capital attempting to sway the opinions and voting decisions of the legislators immediately surrounding the veto pivot point. The marks of this legislative politics model thus include incremental changes and a president whose success rests on his “will and skill” and ability to bargain (Neustadt 1960).

Given the dynamics suggested in Figure 1, the typical member of Congress has numerous incentives to maintain a status quo near the median member. First of all, as

mentioned, collective action problems hinder compromise and mutual exchange with the legislature. Building a large enough coalition to pass both chambers and withstand a potential veto threat is hard work, and the opportunity costs to reelection-minded legislators are high (Mayhew 1974). It is much easier to promote watered-down, less controversial proposals. Additionally, the specialized interests whispering in the ears of individual members are unlikely to suggest localized sacrifice in favor of the common good. Finally, members and scholars alike recognize that small changes in the law benefit all players. Incremental change is easier to defend at election time, and makes it hard for opponents to attack rarely changing positions (Arnold 1990). At the same time, Congress tasks executive agencies with implementing the often vague legislation. When these agencies inevitably execute imperfectly, the victims of the bureaucratic misdeeds can cry out to their respective legislators for help and find that the same individual who was unwilling to take controversial roll call positions earlier is now willing and able to challenge the agency's mistreatment of a voter. The cycle is complete: "Congressmen take credit coming and going" (Fiorina, 1989, 47).

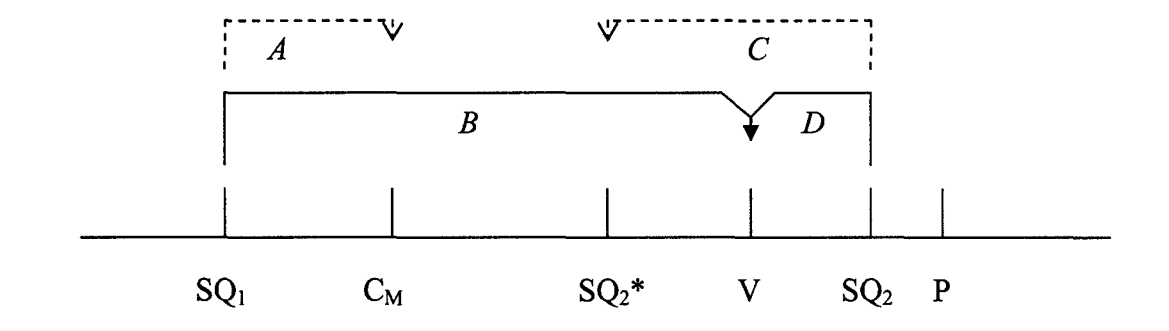
Unilateral politics

Given the institutional incentives that heighten the chances of gridlock within legislative politics, Moe and Howell (1999, Howell 2003) suggest that presidents are able, through direct action, to trump the intentions of Congress by shifting the status quo and forcing an agenda change upon the legislature. Under the pivotal politics model, the first two steps belong to Congress, via the median member and the filibuster pivot (Krehbiel 1998, 24). Policy change can bog down well before the president becomes involved. With the unilateral politics model, however, a Congress content with the status

quo – or unable to move it because of collective action problems or an inability to satisfy the filibuster pivot – can still find itself on the political defensive, forced to confront a new status quo and different agenda.

Figure 2, again adapted from Moe and Howell (1999), briefly demonstrates how. As in Figure 1, Congress would prefer enacting policy as close to the median member as possible, and typically could do so with SQ_1 . Of course, a president facing such a highly unattractive status quo (SQ_1) would also likely seek to work within the legislative framework in hopes of realizing a shift (A) to the somewhat preferable C_M . However, the unilateral politics model argues that presidents can enact a policy much closer to their own preference through executive orders, executive agreements, national security directives, or other means of unilateral action. As the figure indicates, if a president unilaterally shifts policy (B) from SQ_1 to V , Congress cannot move it back towards C_M , since the veto pivot will prefer the new status quo over any other policy, and vote against

Figure 2.2 Unilateral Politics Model (Moe and Howell 1999)



overriding the president's guaranteed veto.

With SQ_2 , a president within the legislative politics model will likely see a policy shift (C) away from his preference and toward C_M , most likely to the veto pivot's

indifference point (SQ_2^*). Before such an occurrence, however, the president could preemptively strike, unilaterally shifting (D) the status quo from SQ_2 to V . This position is less attractive to the president than SQ_2 , but certainly preferable to C_M .

As Howell (2003) argues (he entitles his book *Power Without Persuasion*), the unilateral politics model directly challenges the long-standing image of the president as a persuader, or an “invaluable clerk... [whose] services are in demand all over town” (Neustadt 1960, 7). As well, it suggests that legislative-based indicators of presidential success (Bond and Fleisher 1990), such as box scores, “significant” legislation (Mayhew 1991, Cameron 2000), and headcounts (Sullivan 1988, 1990) may mask substantive effectiveness. With such unilateral powers, even a “weak” president, unable to obtain support through traditional legislative channels, can enact significant policy change.¹⁶

Before specifically addressing the war powers arena, it is worth reviewing the situation thus far. The principal-agent relationship between the president and Congress is blurred somewhat by the fact that, as mentioned, the constitutional designation of the president as Commander in Chief serves as a de facto “hiring” of the agent, leaving both actors in some ways coequal partners. Yet this agent’s claim to equal status does not lessen the fact that the principal maintains most legislative power and the authority to declare war. Therefore, the real problem is not whether Congress can hire or fire the president, but, rather how Congress can control the president. Congress-as-principal still

¹⁶ It is important to note the conditions under which Howell (2003) argues presidents are likely to employ unilateral power. Howell concentrates on executive orders, employing two “sweeps” through the period from 1948-1995 to assemble a time series of “significant” orders. He finds support for two primary hypotheses regarding when presidents are more likely to issue significant orders: during periods of ideological “fragmentation” within Congress and during periods of unified government. The first, he theorizes, because fragmentation prevents the kind of supermajorities required to either move policy out of the gridlock interval or effectively challenge the president. The second, because presidents can unilaterally shift policy to the majority party median under unified government without arousing the suspicion of the federal courts.

maintains, at least on paper, responsibility for determining when and where the president-as-agent can or cannot initiate military action against a foreign power. Therefore, while adverse selection seems a small part of this relationship, the problem of moral hazard intensifies, as the principal now faces the prospect of controlling an agent who, for all intents and purposes, may not recognize its subordinate position. As Moe and Howell (1999, 143) state, "From a control standpoint, this is a nightmare come true."

War Powers and Unilateral Politics

The unilateral politics model makes an important contribution to understanding the ability of the president to share political power with Congress. In the end, Howell (2003) suggests that presidents face a rather basic choice: "What can Congress and the president produce together via the legislative process? And what can the president accomplish alone, knowing that Congress and the judiciary may overturn him" (75). The model lends itself well to domestic politics, but seems especially applicable to the congressional-presidential relationship surrounding war power politics. After all, the tone of much current commentary seems to reflect a widespread suspicion that a decidedly unconstitutional unilateralism has come to define the very nature of the contemporary war powers relationship.

My intent is not to join the normative argument concerning the proper limits of presidential behavior, but to try and understand how political interaction between the legislative and executive institutions plays out within the unique arena surrounding the decision to employ military force. The unilateral politics model provides an excellent frame of reference for exploring this issue, but first we must recognize several important ways in which this issue differs from other policy areas, both domestic and foreign.

Crisis. Former President Ford, advocating the need for presidential flexibility within national security policy, noted that “critical world events, especially military operations, seldom wait for the Congress to meet” (Ford 1977). Likewise, President Lincoln defended, before Congress, his execution of certain war powers in the opening days of the Civil War: “it cannot be believed the framers of the instrument intended, that in every case, the danger should run its course, until Congress could be called together” (Lincoln 1861). Remember, the very presence in the Constitution of the president’s commander-in-chief responsibility owes itself to the founders’ recognition of a legislature’s fundamental inability to respond quickly in the face of a threat (Fisher 2004). Lowi (1979, 128) points out that “Crisis situations are special because they combine intensity of conflict with shortage of time. Politically this means a very narrow scope of participation and an extremely limited range for bargaining.” Domestic political questions tend to take place over a longer period of time, allowing for a greater range of participants, more bargaining, and a better understanding of players’ likely preferences.¹⁷ Crises, on the other hand, tend to favor those best able to move quickly and avoid the problems of collective action (Allison 1969).

Information asymmetry. International crises, particularly when involving the use of military force, present a special case, in that they are at once highly visible, yet seem to play by their own rules regarding the effect on constituency opinion. On the one hand, relating to the connection between politicians and potential voters, military involvement seems to be one of the few factors that can lift foreign policy to the collective awareness of the public in general (Mueller 1973, Page and Shapiro 1992). Though stereotypically

¹⁷ A reminiscing former President Ford, in the same speech attacking the War Powers Resolution, argues that “domestic policy – for housing, health, education or energy – can and should be advanced in the calm deliberation and spirited debate I loved so much as a congressman” (Ford 1977).

unaware of much that transpires in the international arena, the American public tunes in when combat begins. This also suggests that information will be relatively easy to come by as operations continue, and may affect voters' assessments of candidates (Fiorina 1981; Aldrich, Sullivan, Borgida 1989; Bartels 1991).¹⁸ Regarding voter support, a president considering unilateral action in this area knows that the general public is likely to rally to his side, at least for the short-term (Mueller 1972, Brody and Shapiro 1991, Parker 1996). This modifies his opinion of the importance of constituency affects on possible legislative responses, since most members, even those who typically oppose a particular president, will follow the public lead and support both the troops and the commander in chief (Stoll 1987).

At the same time, when it comes to immediate, situation-specific information, the kind required to make knowledgeable policy decisions in a crisis, the president continues to hold significant advantages over Congress (Crabb and Holt 1984, Lindsay 1994). Initial, usually exclusive, access to the nation's diplomatic, military, and intelligence agencies means the president typically operates with information simply unavailable to the legislature.¹⁹ And considering the potential problems that congressional involvement holds – delay, dissention, information leaks – it is not surprising to find presidents unwilling to share information with Congress. As a former senator pointed out to a congressional subcommittee:

¹⁸ "The *prevailing* consensus, however, is that the public possesses little information and only few, ill-formed attitudes about foreign affairs and is concerned deeply about these issues only when their daily lives are directly affected" (Aldrich, Sullivan, Borgida 1989, 125, emphasis in original). The authors suggest, however, that even non-crisis foreign policy attitudes are both available and accessible to voters during campaigns, and, when conditioned through candidate priming, ultimately affect voter support.

¹⁹ As observers of the president would be quick to point out, the information with which the president considers international crises is "filtered" at least twice: within the agency (often multiple layers) and through the National Security Council (see Hinckley 1994).

Margaret Thatcher knows more about what we are going to do anywhere in the world than Congress does. She knows everything in advance. Congress knows nothing. Congress was notified after the fact that President Reagan had bombed Libya. You [members of Congress] were told when it was all over (Senate Foreign Relations Committee Print July 13, 1988, 16).

Iteration. One of Howell's (2003) key assumptions, that nature exogenously determines a status quo and an amount of legal discretion, implies that each policy area enjoys a certain "history." In other words, when a president considers whether to employ unilateral action or not, he considers the likely responses of Congress and the courts, based on an assessment of past preferences and behavior. In domestic politics, he does so knowing that the political game the unilateral action initiates may well play out over a long period of time. The Congress may respond next session by attempting to shift the status quo. Elections may shift party balance and veto points vis-à-vis the president. The courts may determine unilateral action unconstitutional. In other words, whether Congress responds immediately or not to an issue is less important for matters of domestic policy; other opportunities to address a particular issue will eventually arise. However, the opportunity to participate in a specific war powers debate is limited; the political questions surrounding a use of military force are relegated largely to the particular period in which they occur (Fisher 2004).

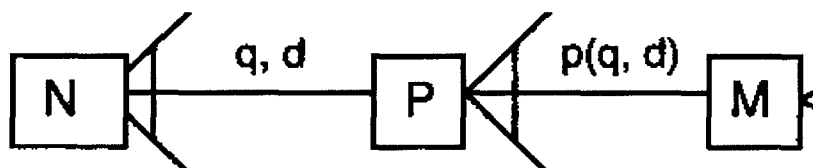
A Hypothetical Journey through the War Powers Decision

Given these specific war power factors, I consider a simplified crisis situation, involving a unilaterally inclined president and a legislature trying to maintain some semblance of political control over employing the military. In an ideal world, the president and Congress would consult quickly, achieve a collective strategy, and proceed as equal partners to the implementation stage. The unilateral politics model, and the

specific factors characterizing war powers, strongly suggests this is not likely. Instead, as with many areas of domestic politics, the Constitution's ambiguity permits the president – any president, from any party, with any level of political and persuasive abilities – both the power to send troops into combat and the power to direct the overall war effort.

Figure 2.3 replicates only the first stage of Howell's (2003) unilateral politics model, highlighting that the president moves first, given a status quo (q) and amount of

Figure 2.3. Opening conditions of unilateral politics model (Howell 2003, 29)



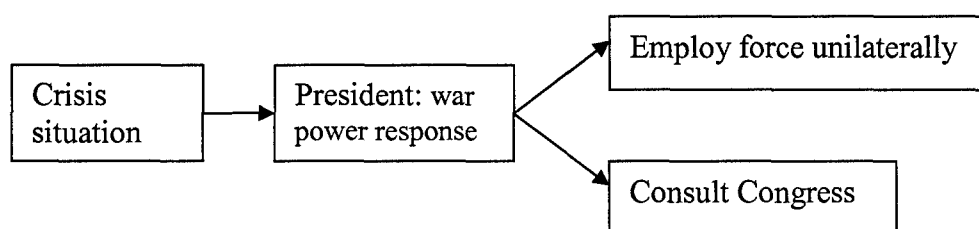
political discretion (d) provided exogenously by nature (N). Building on Krehbiel's (1998) depiction of pivotal politics, Howell formally solves the subgame perfect equilibrium strategies for each player – the median legislator, the filibuster and veto pivots, and the judiciary – given the president's initial unilateral actions (Howell 2003, 28-41, 192-195). Here, I present the first stage of the model only as a reference point for the initial assumptions of the unilateral politics explanation. I have suggested that the Congress is a principal hindered in its ability to control the executive agent. The president's ability to move first, emphasized in Figure 2.3, proves crucial to considering a possible series of events involving an international crisis. As Howell (2003, 29) describes,

Because the president acts first, this game differs from other legislative models. Rather than being a veto player, the president may shift q [the status quo] to any

point along the policy dimension. It is then up to Congress and the judiciary to respond to a new reversion point, $p(q, d)$.

We can apply the basic logic of unilateral politics to a simply hypothetical situation: given an international crisis, the president determines that military action of some type is an appropriate response. Figure 2.4 depicts this situation, as well as the two subsequent choices: to employ military force unilaterally, or to consult²⁰ with Congress in

Figure 2.4. Presidential war power options

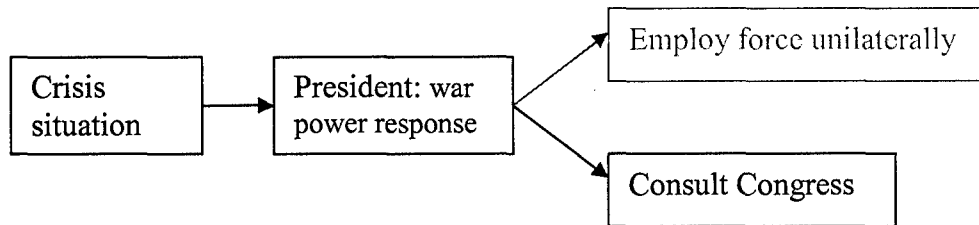


the hope of achieving a collective solution. Remember, Congress will play some role in this political contest, either before or after the employment of military force. The question becomes from what vantage point – proactive or reactive – Congress will respond. First, consider what happens when the president pursues support from the legislature before initiating military operations, as depicted in Figure 2.5. Once the president asks, or makes it clear he plans to ask, for congressional support, then even though the president has started the sequence, Congress essentially secures “first mover” status, since the president has indicated he will proceed only with congressional

²⁰ Richard Grimmett (2004) writes, “consultation in this provision means that a decision is pending on a problem and that Members of Congress are being asked by the President for their advice and opinions and, in appropriate circumstances, their approval of action contemplated. Furthermore, for consultation to be meaningful, the President himself must participate and all information relevant to the situation must be made available.”

permission. This gives Congress important power, and perhaps the final say as to whether military force will play a role.

Figure 2.5. Consultation option



Why would a president be willing go this route? After all, if unilateral powers allow the president to employ combat troops without congressional approval, why risk defeat in the legislature? Two possibilities immediately come to mind. First, the nature of the situation may afford the opportunity for a slower, more methodical approach to formulating policy. In other words, the events in question may not require a crisis response after all. If not, the president would likely seek to secure and present a unified front, touting congressional support as evidence of “American resolve” (Putnam 1988, Fearon 1994). A more cynical reason for consulting with Congress may be to pass the buck on making an unwanted decision. Where a president decides that military force is viable but not preferable, he may find refuge in merely suggesting congressional action. President Washington’s regretful 1793 response to the governor of Georgia that troops could be sent to defend the western frontier only with congressional sanction may represent the first president’s deep respect for constitutional propriety (Fisher 2004). It may also, however, represent the first time a president invoked Congress in order to avoid a difficult military situation.

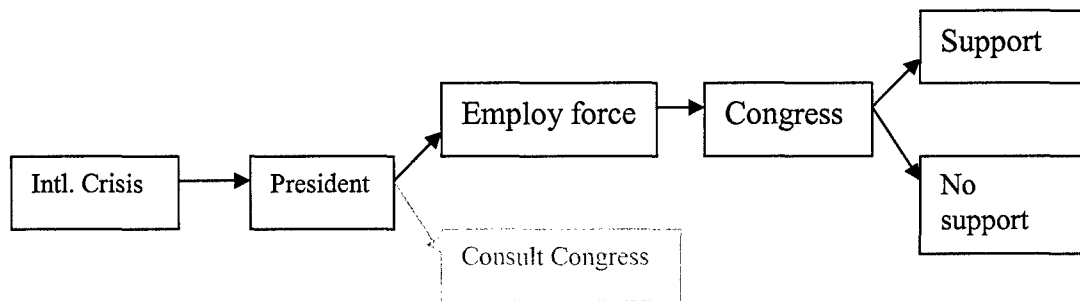
Nonetheless, any president willing to leave the final decision up to Congress runs the very real risk of receiving either no decision, or from his point of view the wrong one. Consider the decision by the Eisenhower Administration to forego military action in support of the French at Dienbienphu in 1954. It certainly stands as one example of the executive requesting congressional support for military action, and abiding by its refusal to grant such authority. Though significant evidence supports the notion that “congressional opposition *reinforced* the administration’s determination to avoid unilateral intervention in support of France” (Herring 1986, 36, my emphasis), the primary public sequence of events is clear: the executive tied military action to congressional approval, thus leaving the ultimate decision in the legislature’s hands.

Interestingly, this sequence, in which the president asks for congressional approval prior to military action, shows up in a slightly different vein later in the Eisenhower presidency, with the Formosa and Middle East resolutions. In the first instance, facing a potential confrontation with Communist China in the Formosa Straits, President Eisenhower made it clear that he considered his commander-in-chief authority sufficient for responding to the threat, and reasserted his responsibility to direct emergency action in light of the threat. At the same time, however, he requested congressional authority to “employ the Armed Forces...as he deem[ed] necessary for the specific purpose of securing and protecting Formosa” (P.L. 84-4, 69 Stat. 7, January 29, 1955). The Middle East resolution, on the other hand, made “military assistance” authority contingent upon regular presidential reports to Congress, and required the president to consult, if possible, with Congress prior to employment of the armed forces.

These episodes from the Eisenhower presidency emphasize the power Congress maintains when the president requests formal authority for actual or potential military action. In one case, Dienbienphu, Congress refused, although it is quite possible that the decision shielded Eisenhower from the political difficulty of having to make essentially the same decision on his own. In another, Formosa, the president hinted at unilateral authority, but requested general support from Congress, and was granted it by large bipartisan margins. Finally, in the Middle East, with a presidential pledge to consult regularly with Congress in the event of military conflict, the legislature agreed to a resolution stating that the country was prepared to use military force provided "that such employment shall be consonant with the treaty obligations of the United States and with the Constitution of the United States" (P.L. 85-7, 71 Stat. 5 March 9, 1957).

As the unilateral politics model indicates, however, the president has the ability to change the agenda by introducing troops to a potential combat situation, thus forcing Congress into a reactive position marked by a drastically altered political landscape. Rather than being asked to debate and comment on an entire policy, Congress now faces essentially one basic question: whether or not to support deployed military troops. As Figure 2.6 indicates, when the president chooses to employ military force without consulting or seeking approval from Congress, he shifts the status quo, and legislative prerogatives give way to those of the Commander in Chief. No matter how forcefully or eloquently Congress may wish to debate or act within the larger context of international politics and national interest, the new status quo renders such questions irrelevant.

Figure 2.6. Unilateral force option



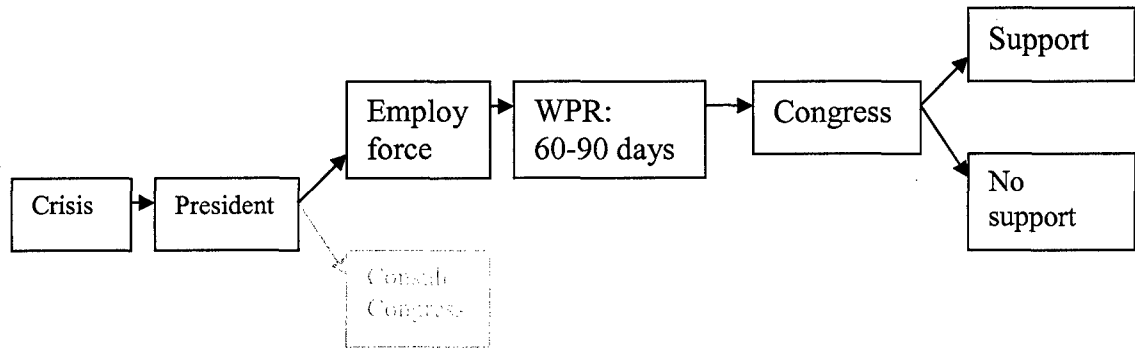
This represents significant power for the president. As mentioned, when congressional approval dictates the president's course of action, then both the specific foreign policy question as well as the president's broader political agenda are up for grabs. There is room for publicly questioning the president's proposed solution, or for suggesting that the president is trying to divert attention from domestic problems. Under different circumstances, publicly expressing doubt of the president's foreign policy might garner "playing politics" admonishments, but since Congress still controls the agenda somewhat, members are freer to criticize. Once military force is deployed, however, the situation changes, in at least two ways. First, as mentioned, and more obviously, the agenda shifts to the soldiers in the field, and the need to rally together and support the troops. Under such constraints, even statements designed to "support the troops, oppose the war," come in for widespread criticism. When the choice is presented in such a way, there really is no choice.

Secondly, however, the president's domestic political situation, as well as any whisperings that military action is purely diversionary, fade into the background as well. Remember, the "rally" effect almost always applies, even when presidents are unpopular

or when military missions do not go as planned – the 1975 *Mayaguez* rescue and the failed 1980 Iranian hostage rescue attempt serve as excellent examples. Therefore, Congress finds itself frustrated on two levels. The debate has shifted to the question of supporting the troops, and now even the president is temporarily off limits. Even apart from the institutional advantages presidents enjoys in terms of information, flexibility, and low transaction costs, it is no wonder they often choose unilateral action in lieu of the congressional consultation.

But what about “congressional resurgence” (Ripley and Lindsay 1993)? What of the War Powers Resolution, an intended constraint on presidential behavior to reinsert Congress into the war powers debate? After all, the act compels presidents to consult with Congress before using military force, and requires regular reports on ongoing operations. How does this post-Vietnam institutional development affect the congressional-presidential war powers relationship? Certainly the scholarly record tilts towards cynicism regarding the substantial effectiveness of the resolution on the president’s ability to wage unilateral war. Critics suggest the resolution goes little beyond political symbolism, and functionally fails to overcome the collective action problems and electoral concerns of Congress (Crabb and Holt 1984, Blechman 1990, Katzmman 1990, Burgin 1992, Hinckley 1995, Fisher 2004). From the basic sequence of events illustrated above, one should hardly be surprised that the resolution’s effect is less than impressive. Referring back to Figure 2.6, an optimistic view of the War Powers Resolution might suggest that, even if the president can introduce a new agenda by initiating military action, Congress now has the ball in its court, with the ability to halt or restrict military action it finds objectionable.

Figure 2.7. Unilateral Force Option under War Powers Resolution (WPR)



Consider a more likely alternative, however. As indicated in Figure 2.7, the War Powers Resolution neither changes the political debate – will Congress support the troops in the field – nor does it significantly alter the timeframe in which political action occurs. In fact, consider two likely results. First, since the act states that the president must terminate military action within 60 days unless Congress has declared war, authorized the action, or extended the permissible period (or cannot meet because of attack), the president has what amounts to a two-month grace period in which to pursue military ends. And the grace period is legal:

The Resolution, it seemed to me, began by ceding the President what he had heretofore lacked; that is, statutory authority to go to war without congressional consent. Before the passage of the Resolution, unilateral Presidential war represented Executive usurpation. Now unilateral Presidential war becomes, at least for the first 90 days, an entirely legal action (Senate Foreign Relations Committee Print July 14, 1988, 42).²¹

So, not only does the War Powers Resolution still allow the president to initiate military action without prior congressional approval, but it gives him 60 days in which to

²¹ The comments are those of Arthur Schlesinger, testifying before the Senate Foreign Relations Committee.

complete the operation (and he can request an additional 30 days for reasons of “military necessity”).

Second, even if the president abides by all the requirements of the act during the initial 60-day period – and no president has agreed that the War Powers Resolution is constitutional²² – he has still shifted the agenda. So, for instance, assume the president humbly reports to the Congress on the success of the operation, furnishes whatever information Congress requests, and publicly agrees to abide by the ultimate decision of Congress at the end of the authorized period. At the end of that period, when Congress turns its attention to whether the operation should be authorized or extended, it once again encounters the same basic question that it faces with or without the War Powers Resolution: will it support the troops. In fact, after a 60 to 90-day military operation, one of two scenarios is likely to confront Congress. One, the operation is over, with the president enjoying the political benefits accruing to a victorious Commander in Chief. Second, the operation continues and the military is sufficiently entrenched to require congressional support to continue. Thus, even the War Powers Resolution-equipped Congress finds itself on the defensive, as a former chair of the Senate Foreign Relations Committee pointed out:

[If] an action...is both swift and successful, then there is no reason to expect the congress to do anything other than applaud. If...an action...is swift, but unsuccessful, then the Congress is faced with a fait accompli, and although it may rebuke the president, it can do little else. If...a foreign war...is large and

²² Since passage of the War Powers Resolution, every president has rejected the constitutionality of the War Powers Resolution, although all have issued at least one of the 117 reports from 1975-2005 (Grimmett 2005). Presidents carefully choose the language with which they report to Congress, stating that such reports are “consistent with the War Powers Resolution,” rather than mandated or required. At the same time, President George W. Bush issued a typical statement when signing Senate Joint Resolution 23 – authorizing military response to the September 11 attacks – on September 18, 2001: In signing this resolution, I maintain the longstanding position of the executive branch regarding the President’s constitutional authority to use force, including the Armed Forces of the United States and regarding the constitutionality of the War Powers Resolution.”

sustained, then it seems to me that the argument that the War Powers Resolution forces the Congress to confront that decision is an argument that overlooks the fact that Congress in any case must confront the decision, because it is the Congress that must appropriate the money to make it possible for the sustained action to be sustained. So I wonder really whether we have done very much in furthering our purpose through the War Powers Resolution (Senate Foreign Relations Committee Print, 1977).

Congressional Responses: A Meaningful Role for the Legislature?

Senator Church's statement highlights the less than ideal position from which the Congress must attempt to work with the president in the area of war power politics. Given the great autonomy the president enjoys as the agent in this relationship, and the factors that hinder Congress' power as principal, one initially does not see much hope for a meaningful legislative role. And yet, are things really that bad in practice? The bulk of this project consists of attempts to empirically test whether Congress can and does influence the president in this policy area. Whether, in fact, the war powers relationship is a case of institutions sharing power, or one institution usurping power. Before addressing these potential avenues for influence, however, it is necessary to consider to consider a second rather cynical view of this relationship.

Congressional Preference for the Status Quo?

Recall that a possible reason for a president to seek congressional approval for military action is to avoid making an unwanted public decision (Figure 5). Why else would a president, who normally is able to move unilaterally and control the war powers agenda, commit to abide by the decision of Congress unless it allowed him to avoid the appearance of backing down in an international situation (Fearon 1994). In the same way, one could ask whether Congress, despite its regular claims to the contrary, may actually prefer its role as frustrated principal? Is it possible Congress prefers that the

president initiate military policy unilaterally? There are at least three practical reasons why the legislature would be comfortable with a broad interpretation of the Constitution's war powers assignment and commander-in-chief designation, and thus more willing to defer to the president. First, as O'Halloran and Epstein (1996) and Moe and Howell (1999) suggest, delegation to the executive is more likely in situations requiring speed, flexibility, and secrecy. Despite its own collective action problems (Moe 1985, 1993, Rudalevige 2002), the executive branch is much more likely than Congress to possess the qualities to succeed in crisis situations:

Congress is a deliberative body, and it's a bargaining body, and it's a great big unwieldy thing. And it does some things beautifully. Among the things it does not do beautifully is to make quick decisions, to decide upon the appropriate amount of force to be applied to a given situation, to be flexible and so on. It's just not in the nature of the beast (Senate Foreign Relations Committee Print, July 14, 1988, 55)

Second, as implied regarding the intent of the founders, the difficulty in crafting a comprehensive response that is also timely demands substantial delegation to those who will carry out the policy. Just as strategic military plans require battlefield-level interpretation, so do broad legislative directives necessitate flexibility to respond to changing environmental requirements. In domestic politics, collective action problems within Congress often lead to an expanded gridlock interval and policy marked more by compromise and incremental change than bold political action (Howell 2003). If this is the case domestically, where immediate demands are relatively rare, how much more does crisis management require delegation to the level of implementation?

Third, the war powers question invariable involves such complexity and uncertainty that shifting responsibility to the executive – essentially free riding on the president's efforts – makes strategic sense for the collective legislative body. Despite the

propensity of some members of Congress to demand the legislature's rightful Constitutional role in war powers politics, there is every reason for members of Congress to assume a risk averse perspective, allowing the president sufficient room to succeed or fail on his own. As one of the original architects of the Senate's version of the War Powers Resolution states, "I came to the conclusion that Congress really didn't want to be in on the decision-making process as to when, how, and where we go to war...that Congress preferred the right of retrospective criticism to the right of anticipatory, participatory judgment" (Senate Foreign Relations Committee, July 13, 1988, 366).

We have already discussed the possibility of the president strategically using congressional opposition to avoid the appearance of backing down. But what if Congress does have the opportunity to authorize military action? Along the same lines of Senator Church's comment above, if the action succeeds, such as the 1991 Persian Gulf War, praise falls primarily on the president and the military, not Congress. Members who support the president are welcome to stand alongside as the president is cheered at homecoming rallies or victory parades, but the attention and benefit accrues mostly to the troops and the president. If the military action is less conclusive or bogs down, however, members who supported the initial operation must either "soldier on" in support of the president, and likely share somewhat if his popularity falls, or else try to explain why they now reject a policy they once supported. Better, conceivably, for the member to avoid making a potentially divisive stand, continue to serve his district, and build his constituency in numerous other ways, apart from the war.

Some of those "numerous other ways" of building a constituency directly relate to a fourth reason for giving the president room to operate. Reelection-minded members of

Congress work hard, by all accounts, to avoid taking political positions which future opponents can use against them (Mayhew 1974, Fenno 1978, Arnold 1990). Until and unless an issue becomes important to the member's district or state, the member will not find it worthwhile to devote limited time and resources to its attention. Members may complain that constituents do not pay attention to legislative accomplishments (Fenno 1978), but they also heed Mayhew's (1974) warning that voters remember a member's *wrong* position much more than they do a *losing* one. The upshot is, because monitoring foreign policy is more costly, and holds less promise of electoral benefit, members are more likely to give the president autonomy. True, war is not just another foreign policy issue: information is relatively easy to acquire, and increasing combat casualties heighten public awareness (Feaver and Gelpi 1999). At the outset, however, when most citizens rally around the president's foreign policy initiative, opposing the president makes little electoral sense.

Finally, as Howell (2003, 111) suggests, although protecting the integrity of Congress may serve an important "institutional maintenance" function (Mayhew 1974), "the job of attending to constituent interests rarely overlaps with that of protecting Congress's institutional integrity." Presidents have strong incentives to serve a national constituency and expand their institutional power. Congress, on the other hand, is fragmented and individualized, and members find greater political reward tending to their small collection of specific interests than taking up the call for greater institutional power. How does this affect the use of military force? The expected, but brief, cry to reinvigorate congressional influence in the war powers arena quickly runs up against the realities of conflict: high presidential approval ratings and the need to support the troops.

So what can Congress do? As discussed earlier, agency theory tends to treat the interaction between principal and agent as two relatively distinct periods, either before (ex ante) or after (ex post) the making of a contract (Stevens 1993). War powers interactions are different in that the introduction of troops into a potential combat environment takes the place of specific contract development. Instead of the principal situationally delegating authority under a contractual framework designed to compel agency performance, the agent himself moves first. The burden, then, falls on the principal not only to monitor agency behavior, but also to try and secure ex post agreement on the ex ante incentive structure. Because both sides disagree on the specifics of the constitutional contract, it becomes essentially a case of the principal reminding the agent of his obligation to a contract he never signed.

Potential Avenues for Congressional Influence

The following sections address potential ways in which the principal might find success in constraining or influencing the agent in this relationship, both before and after the decision to use military force. As mentioned regarding the typical principal-agent relationship, ex ante control refers to those measures used to influence the creation of a contract. Under war powers politics, the ex ante period includes neither of the key processes on which most principals count: hiring the agent and writing the contract. However, Congress can still proactively seek to shape the environment and tools with which the agent will conduct future military operations.

General Ex Ante and Ex Post Options. If the executive chooses to employ military force without consulting Congress, then one can assume that the principal had little direct ex ante effect on the actions of the agent. However, as mentioned above, there

are potential steps available to Congress which may indirectly affect the use of force by the president. Lindsay and Ripley (1993) refer to these issues in general as "structural policies," and suggest that Congress finds its greatest strength in such political activity, as opposed to the more president-dominated "crisis" and "strategic" policies. First of all, structural policy is driven by the appropriations process as well as the type of subgovernment relationships members of Congress strive to cultivate with special interests and specific constituent groups. Additionally, such activities fall within the purview of the legislative obligation to "raise, support, and maintain," the armed forces. Perhaps, then, rather than lamenting the fact that Congress seems shut out of the traditional forms of ex ante control, one should consider whether the body exerts political power through alternative measures which allow it to influence the future environment of war powers bargaining.

As far as potential ex post constraints are concerned, opportunity costs change for members of Congress following the deployment of military personnel. On the one hand, as the general public becomes more aware of the conflict, the cost to individual members of Congress of diverting time and attention to the subject of the war drops. Polling data may reflect more developed, stable attitudes among constituents, thus allowing members of Congress to craft appropriate public positions on the war. Additionally, members can deflect criticism of the war itself – always risky when constituents and their relatives are serving in the military – onto the president. Prior to the conflict, the debate is framed by two positions: for or against military action and the various foreign policy goals. Once the military operation is under way, however, the president becomes an additional dimension to the political discussion. If the operations are going well, the president is

probably off-limits, and Congress will likely have little influence on his behavior. If, however, the president's approval ratings are sliding and the conflict seems to bog down, Congress can more safely approach the topic from the perspective of criticizing the president, while continuing to support the troops.

Appropriations. That the founders saw the power of appropriation as a key hedge against executive misuse of the military is reflected in the two-year constitutional limit (art. 1, sec. 8) on "appropriation of money to that use." The fear of standing armies at the time of the Constitutional Convention motivated the inclusion of this provision in the list of enumerated legislative powers, and both Hamilton and Madison cited it during the ratification debate, in *Federalists* 26 and 41, respectively. The appropriation power is still seen as a key congressional weapon against executive use of the military, but its direct ex ante usefulness seems limited. First of all, Congress will rarely be asked to fund or authorize a use of force ahead of time, due to the impossibility of estimating the timing and cost of international crises and military responses. Second, and subsequently, the president has numerous money sources with which to fund the initial phases of an operation, meaning Congress may not find itself involved until troops are in place (Banks and Raven-Hansen 1994). Howell (2003, 125) points out that, "contingency funds generally enable a president to fund a program or agency for only a short interim, [but] often this is sufficient to generate the momentum needed over the long haul."²³

Any appropriations impact before the use of force must necessarily resemble the "structural policies" mentioned above. It is possible that, through its responsibility to fund the entire Department of Defense, Congress can influence presidential decisions to

²³ "In national security appropriations, Congress has sought to plan for the unforeseeable and thus provides the president with separate accounts to cover contingencies" (Banks and Raven-Hansen 1994, 70).

use force. For instance, it is conceivable that a president looking for information on whether the legislature will support his military policies will consider how well the body has supported his requests for defense spending. Though some aspects of defense spending are notoriously pork-laden, such as military construction and procurement, a president might consider cuts or increases in other specific request areas as a reasonable signal of the institution's willingness to support military operations.

Regarding ex post mechanisms available to the Congress, no other legislative mechanism provides as clear a method, at least theoretically, for imposing congressional constraints on the president than the body's handling of the nation's purse strings. Military personnel sent into battle must be supported by more practical means than public statements of support: ammunition, fuel, food, medicine, body armor, and myriad other tools of modern warfare require vast sums of money, which must be requested directly and personally by the executive. Thus, the same actor whose unilateral action is at the heart of the conflict must now approach the legislature and ask for implicit approval of his policy. Still, the legislature can hardly afford to assert itself at this point in the conflict, because the executive's request is – as everybody from news reporters to soldiers' families to attentive constituents knows – a request not just to fund the war but to “support the troops.” Even if the war has proven difficult or unpopular, members of Congress rarely consider facing the political heat that would accompany a vote to pull the plug on war funding.²⁴ Nonetheless, the constitutional requirement that Congress fund “the war” does provide an opportunity for congressional constraint and an ideal test for a theory of war powers politics.

²⁴ Appropriations bills have been used to cut off funding for certain elements of the War in Vietnam, as well as support for military elements in Angola and Nicaragua. Additionally, appropriations legislation included cut off dates for American military involvement in Somalia and Rwanda (Grimmett 2001).

Resolutions. Congressional resolutions range from “acts of Congress” and joint resolutions to “simple” and “sense of the House/Senate” resolutions. The former two represent legislative acts, which, upon the signature of the president, become public law, while the latter two are often used to handle topics such as congratulations, condolences, and advice. The formal declarations of war announcing American entry into the two World Wars were both joint resolutions, requested and signed by Presidents Wilson and Roosevelt. Resolutions authorizing the use of force in Desert Storm in 1991 and the invasion of Iraq in 2003 were similarly requested by the president, approved via joint resolutions, and ultimately signed by Presidents George H. W. Bush and George W. Bush, respectively. Apart from the declarations of war, these resolutions represent a clear opportunity for Congress to constrain the president prior to the introduction of armed forces (or, as Desert Storm makes clear, at least the beginning of specific offensive combat operations). The weakness of resolutions as a constraining mechanism becomes obvious when one considers how infrequently Congress has the opportunity to approve or reject potential military action. Additionally, given the information advantages of the executive, Congress may not always have a full picture of the situation.

Hearings. Given the right set of circumstances, committee hearings offer Congress the ex ante opportunity to question the president’s war power policies directly through some of its principle architects, as well as indirectly via the military. For instance, hearings in February 2003 highlighted differences between civilian and military leaders within the executive branch regarding necessary troop levels for an attack on Iraq. Representatives and senators were also able to question cost estimates, specific goals and plans regarding occupying and rebuilding Iraq, and diplomatic initiatives regarding other

members of the “coalition of the willing.” Of course, these particular hearings also highlight Congress’ weakness as principal. One sees evidence of this in that they became fodder for criticism of the war effort chiefly in the months after the invasion of Iraq (Fallows 2004). Additionally, an extended period of military buildup, in which military and civilian leaders are available to debate their estimates of the potential conflict, is certainly the exception, and provides Congress a rare, if excellent, opportunity to confront the executive branch *prior* to military activity.

In terms of the “police patrol” and “fire alarm” concepts of congressional oversight (McCubbins and Schwartz 1984), *ex post* congressional hearings related to ongoing or completed military action may more resemble responses to an urban riot. The suspects and/or smoke are in plain view, fire alarms are going off throughout the neighborhood, and a crowd has gathered to gauge the official response to the crisis. In this role, then, Congress has some opportunity to take visible action against the executive branch. Members can reiterate their own positions on the issue, express party or chamber concerns, pry for information from executive agents such as the Defense or State departments, and attempt to threaten or cajole the president indirectly, through responses to the testimony of executive branch representatives.

Conclusion

The following chapters provide empirical evidence concerning the war powers framework developed here. In short, the prospects for effective congressional control, perhaps even meaningful participation, in the war powers debate, do not appear particularly promising. The chief problem, at least theoretically, is the ability of the agent in this relationship to initiate military action without the specific authority of the

principal. This comes as no surprise when one considers the vagueness of the original constitutional contract; it simply leaves too many holes waiting to be filled by an actor with the flexibility, autonomy, information, and will to push the envelope. At the same time, transaction costs within the large, divided legislature prevent the principal from organizing to constrain the president's unilateral action. In the end, Congress may well see greater political gain from foregoing its constitutional responsibility in favor of a safer, more predictable role. The inability to practically and efficiently constrain the president leads the Congress to strategically defer any tangible responsibility for deploying American military personnel, while clamoring for recognition of its constitutional right to participate in the decision.

CHAPTER THREE

EVIDENCE OF DOMESTIC INFLUENCE ON THE USE OF MILITARY FORCE

It is impossible to understand the organic balance of power between the president and Congress without examining their interaction in the realm of foreign affairs.²⁵

This project develops and tests several models of congressional influence on the use of military force. As outlined in the last chapter, the focus remains primarily on the relationship between the two policy making institutions within the American constitutional framework and how that relationship plays out when the question of military employment arises. The president's ability to employ force unilaterally, and the related struggle of Congress to constrain that action, often boils a variety of complex political problems down to a single emotionally (and electorally) charged choice: support the troops or not. Congress can seldom expect to win such a political battle.

But does it have to? Scholars of international relations have certainly not thought so; or have not deemed the battle important enough to include Congress in the political debate surrounding the use of force. And perhaps for good reason. If the president is as unilaterally empowered as suggested, the folkways of Congress may be the wrong place for look for domestic elements of influence. Indeed, those models that do test domestic factors relating to the use of force tend to frame the relationship in terms of two primary actors: the president and everything else. In other words, with a certain amount of unintended irony, studies intending to investigate political dynamics below the state level

²⁵ Spitzer (1996, 85)

often simply substitute the unitary presidential actor for the unitary state. Certain national-level political variables then influence that unitary actor's behavior to behave in certain ways toward other actors in the international arena.

A more realistic test of domestic influence on the decision to employ military force, then, should take into account the political dynamics specific to the main political actors within the government. In the United States, of course, that means between the president and Congress. As indicated, however, Congress does not find a ready welcome in most models of military force. This work aims to remedy that oversight, by stipulating and testing accurate indicators of congressional activity as it pertains to the use of force question.

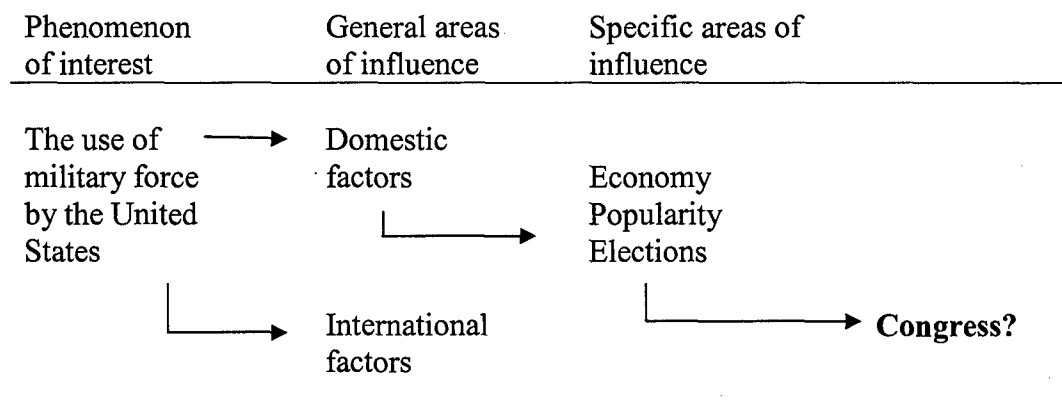
First, however, it is important to understand the current state of knowledge in this area. After all, as relevant a player as Congress seems, or claims, to be, it may be that other factors sufficiently explain presidential behavior. It may also be, however, that presidents do not consider any domestic factors, at least systematically, when deciding whether to use force. Certain scholars give short shrift to the notion that homeland political considerations contribute to any kind of "wag the dog" phenomenon. In this chapter, then, I begin by reviewing evidence on whether the president includes any domestic factors in his decision to employ force.

Political Science Approaches to the Use of Military Force

Research in this area tends to start from one of two theoretical standpoints: either the president employs military force with little regard for political constraints, or else a variety of domestic political factors affect the president's consideration of the use of force. Figure 3.1 suggests both a way to conceptualize this issue area as well as a general

design for investigating the impact of Congress. In the next two chapters I address various depictions of the dependent variable: the use of military force by the United States. As will be seen, one can consider this phenomenon in terms of simple occurrence – did it happen or not? – or in terms of scope and duration – how many troops and for how long? The most basic question regarding the use of force, then, as indicated in Figure 3.1, is one of general influence: do international factors, domestic factors, or some combination of the two determine whether American presidents use military force?

Figure 3.1: Framework for Investigation of the Use of Force Decision



As this is a study of the relationship between American political institutions, I cover the question of domestic versus international influence from a general perspective. While my models certainly include accepted measures of international importance, I begin by discussing how the domestic political arena fits in the broader attempt to understand the international system.

From the Outside Looking In: International Relations and Domestic Politics

The study of domestic influence in the use of military force is hardly a new phenomenon, but it probably owes much of its growth to the end of the Cold War and the

subsequent waning of that period's dominant theoretical paradigm: realism. Not merely an academic exercise in understanding international relations, realism reflected, and was reflected in, the foreign policies of the United States and the Soviet Union, both marked by worldviews short on uncertainty concerning "the other side's" motivations and likely behavior. Realism did impact the study of international relations, however, as the absence of uncertainty made internal political factors less relevant to the understanding of the international arena.

The pure realist, after all, has little interest in what goes on within the domestic realm, because all states are presumed to share the same objective: securing and maintaining power.²⁶ Morgenthau (1967) spends only enough time considering, for instance, the American separation of powers, to argue that an international balance of power rests on the same principles as Madison's divided domestic powers (166). Even the neorealist finds little in specific domestic activity to substitute for the presumed importance of the distribution of national capabilities within the anarchic international system. Waltz (1986) discusses domestic politics at some length, but primarily to demonstrate how internal structures shed light on the importance of international structures. Ultimately, the type of governmental system or political dynamics marking a state's domestic environment make little difference in terms of the behavior that other states expect, and thus uncertainty does not play a crucial role for realism.²⁷

²⁶ But not "sensible Realists," cautions Keohane (1986, 183). They are "highly cognizant of the role of domestic politics and of actor choices within the constraints and incentives provided by the system."

²⁷ In addition, the realist paradigm lends itself well to quantitative analysis of the international arena. The recent history of political science is marked by the growing availability of datasets describing in increasing detail the historical conflicts and military confrontations between states and international actors. With state characteristics easily operationalized in terms of military, economic, and geographic factors, as well as population, natural resources, and international alliances, it is no wonder that international relations is historically focused on war and conflict, and with a significant absence of domestic considerations

Even before the Cold War ends, however, one finds scholars moving away from the view that domestic political institutions and conflicts are of little importance to international relations. Writing only a few years before the collapse of the Soviet Union, Putnam (1988, 427) argues that it "is fruitless to debate whether domestic politics really determine international relations, or the reverse. The answer to that question is clearly 'Both, sometimes.'" Building on the work of Schelling, among others, Putnam argues that international activity, specifically bargaining between national actors, must "be rooted in a theory of domestic politics" (1988, 442), as it ultimately succeeds or fails subject to the actions of domestic constituents. A valuable contribution of this idea is Putnam's image of national political leaders playing two simultaneous games: an externally focused international game against foreign counterparts, in which advisors and diplomats assist the state leader; and an internal domestic game involving various constituencies, advisors, and interest groups.

Other scholars, contemporary to Putnam, also center their work largely on the uncertainty surrounding an actor's likely behavior. Tsebelis (1990) focuses more on the relationship between an observer and an actor in a given situation, but the overall concept, of political actors playing multiple, or "nested" games, is similar to Putnam's, although Tsebelis argues that interactions may include a variety of games occurring at the same time. Fearon (1994) argues that in a "war of nerves" between two actors, bold statements or threats carry significant "audience costs," both immediate and potential, for the issuing party. For our purposes the potential costs are most important. If a state mobilizes troops or threatens war against an opponent, the leadership is essentially staking its reputation on the predicted, but unknown, reaction of the adversary.

Interestingly, in discussing why democracies tend not to fight wars against each other, Fearon suggests that the more influential and attentive audiences within democracies may enable leaders to send more credible signals and reduce uncertainty, since having to back down from an idle threat may be greater costs in terms of job security.

Through a series of works undertaken with a number of other scholars, Bueno de Mesquita also explores the effects of domestic constraints on the international behavior of a state (Bueno de Mesquita and Lalman 1992, Bueno de Mesquita et al 1992, 1999a, 1999b, 2001, 2003). Of particular relevance here are the concepts of a “selectorate,” or that portion of the population with “an institutionally legitimate right to participate in choosing the country’s political leadership” (Bueno de Mesquita et al 1999b, 148), and the “winning coalition,” or the group within the selectorate whose support determines whether or not the leadership remains in office. Assuming that leaders desire to retain office, and thus seek to please their winning coalition, Bueno de Mesquita and his coauthors argue that leaders must ensure a steady flow of private goods (those available only to the winning coalition) and/or public goods (those available to everyone) in order to maintain power.

From this basic framework, the authors suggest, one can see how differences in domestic institutions affect the choices leaders make in designing responses to foreign policy crises and threats. In states with small selectorates – autocracies and dictatorships, especially – leaders can pull private payoffs out of society and satisfy those who keep them in office. In democracies, where more citizens claim a place in the winning coalition, private goods hold a smaller marginal value to each member of the coalition, and a leader can no longer “buy everyone off” when the pressure rises. Expending

society's resources – public goods – in military endeavors, then, without success, costs the leader of a large winning majority more than it does an autocrat or dictator able to retain power through the selective provision of private goods.²⁸ Thus, a democratic leader will not, *theoretically*, rush into a war without carefully considering the likelihood of success.²⁹

This theoretical framework is part of a broad research program that is well represented in the political science literature, and a brief discussion hardly does it justice. However, most important for my purposes is the overarching argument that, to both scholars and state leaders, the expected behavior of a particular state can not be assumed to depend only on its place in the international system or a preexisting drive for power. Instead, uncertainty marks any effort to predict, and because the multi-level approaches to international relations direct both scholar and leader to look below the surface, they offer potential for reducing that uncertainty.

Domestic Political Factors and the Use of Force.

The review of international relations literature indicates that some concept of domestic politics is important to the study of conflict, the democratic peace, and political activity among states. More specific to the American experience, numerous studies purport to explain the influence of various domestic influences on the decision to use

²⁸ This reflects the Kantian concept of democratic citizens resisting the national call to arms once they recognize that they will pay the majority of costs in life and possession.

²⁹ The notion that domestic institutions particular to democratic states hinder the rush to war contributes to the "democratic peace" phenomenon observed within international relations (e.g., Doyle 1986, Russett 1994, Russett and Starr 2000). The democratic peace reflects the empirical observation that democracies, though willing enough to fight non-democratic states, do not go to war with other democracies. Russett (1994) summarizes several explanatory approaches to the democratic peace: leaders within democratic states are constrained by public debate and divided power; the relative transparency of democratic societies more effectively signals intentions and likely behavior to potential rivals; certain "norms" prevailing within democracies make them less warlike with regard to similar societies. ; and the Kantian notion that citizens facing .

military force. These studies focus almost exclusively on the use of force as an executive decision, and investigate several constraining factors on the president specifically. As mentioned, such an approach approximates those international relations theories that consider domestic politics as affecting the unitary actions of the state. In other words, if domestic politics matter, they do so only in terms of how they affect the decisions of the singular actor at the head of government, and thus of the state itself. Almost all of the major use of force studies investigating domestic politics, then, ask whether certain political or economic factors affect whether the president makes the decision to employ military force.

Diversionary Theory.

Three domestic factors in particular are assumed to influence presidential decisions to employ military force. Though occasionally studied as singular points of influence, Meernik (2004) groups all three – economic performance, public opinion, and elections – under the umbrella of “diversionary theory.” At the most general level, diversionary theory argues that political leaders, in particular American presidents, may employ military force overseas as a way of “diverting” attention from domestic problems. Thus, the president facing high unemployment, a difficult upcoming election, or a particularly messy political scandal at home, may choose to take some type of foreign military action. Theoretically, this has two important consequences. Most obviously, the public’s attention shifts away from the current domestic problem to the high-profile fate of troops in harm’s way. Secondly, however, if that focus on the military translates into an increased sense of solidarity among the general public (Mueller 1973) and Congress

(Stoll 1987, Hinckley 1994), the president may actually enjoy higher approval rates despite the continued presence of the original domestic problem.

The diversionary thesis usually meets with one of two general reactions. First, this is as much a popularized theory as a popular one. Observers point to the boost in approval ratings experienced by presidents even in failure, such as the 1961 Bay of Pigs invasion and the 1980 Desert One hostage rescue mission, as evidence of a “rally effect,” or a temporary boost in approval ratings. They then likely mention not only President Clinton’s infamously ordered missile attack in the midst of the 1998 impeachment proceedings, but also the movie *Wag the Dog* to connect the dots and imply that, since the rally effect seems sometimes real and verifiable, diversionary behavior by the president must naturally follow.

The second reaction to the diversionary theory is to point out that, despite a few aforementioned high profile events, little in the way of systematic empirical evidence exists to demonstrate the theory’s validity. More troublesome, what does exist is significant debate as to the expected direction of the three primary variables hypothesized to affect the use of military force. I now turn to a more specific discussion of the findings concerning the influence of public opinion, economic performance, and elections on the incentives of the president regarding military force.

Public opinion:

Presidential approval suggests perhaps the most universally accepted domestic influence on the decision to use military force, yet its specific effect is far from clear. To demonstrate this, consider the options reflected in Table 3.1, which reflects possible outcomes of different presidential approval rates against the decision to use military

force. Consider outcome *A*, which predicts that a president with high approval ratings will be more likely to use military force. Although not necessarily predicted by the diversionary hypothesis, some observers find it reasonable to assume that “all other things being equal, the president will act when he perceives he can afford to lose or when he possesses a ‘popularity buffer’” (Ostrom and Job 1986, 549). High popularity ratings likely make it easier to mobilize political support and convince the opposition to fall in line behind the president (Fordham 1998). Many studies confirm the positive relationship between popularity and the use of force (Ostrom and Job 1986, James and Oneal 1991, James and Hristoulas 1994, Wang 1996).

Table 3.1: Options: Presidential Popularity and the Decision to Use Force

		Is the president more likely to employ military force?	
		Yes	No
Does the president enjoy high approval ratings?	Yes	<i>A</i>	<i>B</i>
	No	<i>C</i>	<i>D</i>

DeRouen (1993) suggests that outcome *B* more likely reflects the relationship between popularity and the use of force. Applying elements of prospect theory, he argues that presidents are *risk-averse* with respect to gain. In other words, high approval ratings, what DeRouen calls a “domain of gain,” are less likely to be associated with the use of force since a president in such a situation mostly desires to “prevent political fallout.”

It follows, then, that DeRouen’s (1993) *risk-acceptant* leader may be more willing, faced with low approval numbers, to gamble that a successful use of military

force will boost his popularity. This prediction *C* seems the most direct application of the diversionary hypothesis, but is not without its problems. First of all, as the nearly instant reaction to President Clinton's actions in August 1998 seem to demonstrate, some observers – particularly political opponents – would consider any use of force during a domestic crisis to be simply a diversionary tactic. When President Clinton ordered missile strikes against suspected terrorist training camps in Sudan and Afghanistan in August 1998, many thought the timing of the action suspicious, since the president had acknowledged his relationship with Monica Lewinski only days before.³⁰

A second problem with prediction *C* is that empirical evidence seems to indicate a relationship between uses of force and *declining* approval, but not necessarily low absolute numbers (Ostrom and Job 1986, Meernik 2004). This suggests that uses of force, if taken as diversionary tactics, are intended to slow a negative trend, not resuscitate long-standing popularity problems. Again, however, contradictory findings plague this research puzzle, as Wang (1996) observes a positive relationship between public approval and the use of force, perhaps reflecting presidents more willing to take advantage of improving political fortunes.

Finally, there is the possibility that low approval ratings do not make presidents any more likely to use military force (prediction *D*). Perhaps, as mentioned, they realize that any such action will simply arouse suspicion and opposition. Perhaps when low

³⁰ Interestingly, though the “wag the dog” angle received much media airplay at the time, poll evidence suggested that a majority of Americans did not consider the attacks related to the president's scandal-related troubles. An August 22, 1998 Los Angeles Times poll (telephone poll of 895 adults nationwide with four point margin of error) reported that 59% of respondents felt the attacks were motivated by legitimate national security concerns (http://www.latimes.com/news/nationworld/timespoll/la-980823raidpoll-415pa1an,1,7942692.htmlstory?coll=la-news-times_poll-nation). An August 20, 1998 CNN/USA Today/Gallup Poll (interviews with 628 Americans with a four point margin of error) reported that 58% of respondents felt the attacks were ordered “in the best interests of the country” (<http://www.cnn.com/ALLPOLITICS/1998/08/21/strike.poll/>)

approval is associated with domestic policies, presidents look first and primarily to domestic fixes. Or, much to the chagrin of diversionary theory proponents, perhaps presidents simply do not experience improved popularity by employing military force. One must remember that the “rally effect” associated with uses of military force is, at best, a temporary effect (Mueller 1973, Parker 1996). The short-term boost in approval ratings – whether reflecting patriotic support of the president (Mueller 1973), allegiance to national institutions (Parker 1996), or an absence of criticism from opposition leaders (Brody and Shapiro 1989) – soon returns to pre-conflict levels. Others question whether approval rates increase at all. Moore and Lanoue (2003), Meernik (1994), and Meernik and Waterman (1996) find little evidence that any domestic factors, popularity in particular, affect the use of force. Lian and O’Neal (1993) and Mitchell and Moore (2002) also find little to encourage presidents to boost their popularity by using force, although both suggest that positive effects are more likely when the president responds to a severe crisis.

Economic Performance

Perhaps more substantively than public opinion, economic performance provides the foundation for the argument that domestic factors influence the use of military force. Whereas low or declining presidential approval ratings may reflect a variety of underlying domestic issues, it is quite possible that economic performance lies at the heart of any specific dip in approval. Political observers of the 1992 presidential election are well aware of the ability of economic perceptions to trump foreign policy achievement in the electorate’s relative comparison of presidential candidates. And regarding the incentive to use military force, the economy’s important role in determining

public approval of the president leads to empirical predictions that are at once more straightforward, yet more complicated, than those for public approval.

Rather than the four relatively reasonable, if mutually contradictory, hypotheses regarding the predicted effect of presidential approval on the use of force, most researchers assume a negative relationship between economic performance and the decision to employ military force. In other words, the worse the economic indicators become, the more likely a president is to use force. Again, this is classic diversionary theory: while the mere act of using military force may take care of low presidential approval numbers, most uses of force do not promise much in the way of direct economic relief (but see Fordham 1998).³¹ Regardless, presidents will be more likely to use military force when the economy is suffering. Economic performance is typically measured through quarterly or annual unemployment and inflation rates, and most studies do find the expected negative relationship (Ostrom and Job 1986, James and Oneal 1991, Wang 1996, Howell and Pevehouse 2005).

As mentioned, however, some scholars suggest that economic performance requires a more complicated theoretical treatment. For instance, DeRouen (1995) finds that the misery index – the sum of inflation and unemployment rates for a particular period – does not predict the use of force, but that it works indirectly by leading to declining approval ratings, which are associated with the use of force. Similarly, Fordham (1998) suggests that economic indicators, in particular a high unemployment rate, can make the use of force both more attractive – via the traditional diversionary

³¹ Particularly regarding inflation. See Halberstam (1972), for instance, for a discussion of the Johnson Administration's concern that military action in Vietnam would (as happened) stimulate inflationary growth.

hypothesis – as well as less costly – through the possible economic stimulus that a prolonged conflict could produce.

Fordham (1998b) suggests another innovative take on economic performance by pointing out the different incentives of Democratic and Republican presidents faced with dropping economic indicators and the need to satisfy core party constituencies. Briefly, Democrats are assumed to find high unemployment more problematic than high inflation, while Republicans prefer unemployment to high inflation. Since macroeconomic policies designed to slow inflation can also stimulate higher unemployment, a Democratic president facing high inflation may find an overseas diversion more attractive than a Republican president in the same situation. Faced with high unemployment, a Republican may likewise lean towards diversionary action in lieu of economic policies that risk boosting inflation. Fordham's (1998b) findings indicate that presidents of different parties do, indeed, consider the use of force differently, given different economic realities. Overall, his and other treatments of economic performance strongly caution against expecting a straightforward relationship between the economy and the use of force.

Elections.

Presidential elections mark the third variable found in nearly every empirical analysis of domestic politics and the use of military force. The effect of presidential elections is often framed in terms of an "October surprise," whereby the incumbent president orders military action in hopes of rallying the nation around his own or his party's election efforts. Though such an endeavor would face significant odds of success – Meernik (2004) argues a successful act would have to be short, successful, justifiable,

and memorable – scholars have found the possibility too great to fail to include this variable.

A notable difference between elections and the previous two variables, however, is the predicted simplicity of this relationship. Stoll (1984) describes a president as electoral-minded as any member of Congress, and with the ability to take whatever political action is necessary to secure his job. Because the electorate tends to consider domestic factors more than foreign policy when determining how to vote, Stoll (1984, 232) suggests that presidents are most likely to see a potential benefit in military force when the public's attention is already turned to foreign matters. Therefore, Stoll and others (Ostrom and Job 1986, James and Oneal 1991, Wang 1996, Fordham 1998b) predict and find evidence indicating that presidents are more likely to use military force around elections, particularly during war, with fewer visible uses of force occurring during periods of peace.

Despite the evidence suggesting that elections affect the use of force, other scholars find no evidence of an election-year or campaign impact (Yoon 1997, Howell and Pevehouse 2005). Auerswald (1999) for instance, argues that national elections make executives less likely to initiate conflict, since opposition party elites, who normally "wait and see" before speaking out against military operations (Brody 1991), will be less likely to remain silent during a political campaign, thus lessening the expected returns of a public opinion rally. He argues that the strategic president initiates force earlier in the political term, when the longer horizon better promotes an outpouring of popular and political support. Similarly, Gaubatz (1991, 213) argues that elections work to "increase the societal restrictions on the course of actions the state can follow,"

and that – a hypothesis supported by his findings – democratic states are more likely to experience military conflict early in electoral cycles.

Evidence Against Domestic Influence.

A significant group of studies finds little evidence that domestic politics matters at all in determining the use of military force. For Meernik (1994) and Meernik and Waterman (1996), the problem lies in the unit of analysis. As I discuss in greater detail in the next chapter, the authors operationalize the use of force according to “opportunity,” based on criteria developed by Job and Ostrom (1986). Measuring the independent variables in terms of specific crises, they argue, rather than quarterly or annual time periods, results in small or nonexistent effects for domestic factors.

Mitchell and Moore (2002) also question certain decisions regarding the treatment of the data in Ostrom and Job’s (1986) study of domestic influence. Mitchell and Moore (2002) correct for problems concerning the choice of dependent variable and the treatment of Cold War-specific temporal dynamics. Statistical analysis based on these corrections indicate that international factors are more important than domestic influences in explaining the decision to use force.

Finally, some scholars argue that the uses of military force may owe more to selection effects on the part of American and foreign decision-makers than on any domestic political factors. Fordham (1998b), for instance, regresses Meernik’s (1994) “opportunities to use military force” on the same domestic variables purported to affect the decision to use force. Fordham (1998b) finds statistically significant relationships for numerous domestic variables, demonstrating, he argues, that presidents may select

“opportunities” to employ military force according to the same strategic criteria they use when considering the use of force.

Leeds and Davis (1997) and Meernik (2000) suggest that American adversaries are the ones employing strategic selection criteria, by carefully choosing the times and places in which to act adverse to known American interests. Essentially arguing that adversaries adhere to the validity of the diversionary hypothesis, each study takes the opposite approach to explaining the behavior of these states. Leeds and Davis (1997) suggest that adversaries will choose to avoid activity which might provoke the United States during times of poor economic performance or presidential approval, since presidents will be more likely to respond under those conditions. Meernik (2000) argues just the opposite, that crisis initiators essentially take a “kick them when they’re down” mentality, gambling that presidents distracted by troubles at home will be less likely to respond militarily to international provocation.

What about Congress?

As mentioned, most research into American uses of military force consist of varying sets of international and domestic factors, with the domestic factors primarily including measures of presidential approval, economic performance, and elections. Largely omitted, literally and figuratively, from the discussion is potential congressional influence. In this section I briefly discuss traditional and more recent approaches to including Congress along with the traditional indicators of domestic influence on the president. The next chapter introduces two additional areas of potential congressional power.

Party.

Interestingly, even studies that reject the notion that domestic influence matters in questions of military force often include dummy variables reflecting partisan balance within Congress and between Congress and the president. This “just in case” approach to model specification seems reasonable, since party balance represents an efficient indicator of the general political environment in which this decision is made. Indeed, with blunt indicators such as public opinion, economic performance, and election deemed to be the primary domestic determinants of the use of force, an equally blunt measure of institutional political conditions may add to the explanatory power of these models.

And recently such models have begun to provide evidence that party does, indeed, matter (Howell and Pevehouse 2005, Wang 1996). In assessing this evidence, however, it is worthwhile to return to the same discussion concerning contradictory hypotheses that we explored with regard to presidential approval. Again, it seems that what many assume to be the straightforward effect of this variable may lend itself to more complicated possibilities.

Table 3.2 reflects possible outcomes of the relationship between the president’s partisan strength in Congress and the decision to use military force. In other words, in terms of party alone, how might a president view the ability of Congress to affect the use of force at a time and place of his own choosing? Most research assumes that unified government positively impacts the use of force by the president. But is that the only option? Putting aside the myriad other factors involved in this decision, let us consider four possible, differing, but quite reasonable viewpoints of a president in each situation.

Table 3.2: Options: Unified Government and the Decision to Use Force

		Is the president more likely to employ military force?	
		Yes	No
Does the president enjoy majority partisan support in Congress?	Yes	<i>A</i>	<i>B</i>
	No	<i>C</i>	<i>D</i>

The first result (*A*) reflects the generally accepted position regarding this relationship (Kriner 2006; Howell and Pevehouse, 2005, forthcoming; Wang 1996). A president blessed with same-party majorities in Congress will likely view the decision to employ military force as a relatively safe political choice. This hypothesis basically applies conventional domestic political expectations to the use of force. A widely accepted assumption in American politics holds unified government to be an important determinant of legislative success, particularly regarding landmark policy (Bond and Fleisher 1990, Howell, Adler, Cameron, and Riemann 2000).³² It seems safe to assume that a president contemplating military force will expect and rely on support from members of his own party, particularly since evidence indicates that members of Congress are no less susceptible to “rally effects” than the general public (Stoll 1987, Hinckley 1994).

Following this line of reasoning, Howell and Pevehouse (2005) and Wang (1996) make party the focal point of their arguments that Congress does affect the choice to

³² Significant opposition to this position exists, however, holding that divided government does not necessarily preclude legislative accomplishment (Mayhew 1991, Fiorina 1996), or arguing that party identification or political parties in general play a less important role than commonly thought (Krehbiel 1998, Wattenberg 1984).

employ military force. Howell and Pevehouse (2005) argue that, particularly regarding major uses of force, presidents are likely to gain political support from same-party congressional members because of shared informational and electoral benefits. Like-minded legislators are more apt to support executive decisions to use force because they can trust the information on which the president's case for military action rests. Members of the president's party are more likely to approximate his policy views; therefore a stronger partisan balance in Congress should mean greater leeway for the president to act. At the same time, knowing the president is likely to enjoy a boost in popularity following the initiation of military operations, same-party members will expect the "rising tide to lift all ships" and support the president for their own electoral gain.

The possibility that unified government makes a president less comfortable with the decision to use military force (*B*) rests on two assumptions. First, if presidential influence really resembles a "bank account" – and despite some findings to the contrary (Sullivan 1991) presidents seem to view their office in such terms – then the decision to "save" for more important, likely domestic, political battles may lead presidents to hold off on risky foreign action, even with party majorities in Congress. Second, unified government could also prove a barrier to presidential uses of force if the party majority masks a deeper ideological rift. Southern Democrats, for instance, comprised an important proportion of the long-standing Democratic majorities in the decades following World War Two. Despite numerical partisan superiority in Congress, Presidents Kennedy, Johnson, and Carter recognized that legislative success required appeasing two often divergent groups within their own party.

The other two possibilities occur when a president faces a Congress controlled by the opposing party. The second of these two situations (*D*) simply represents the flip side of the generally accepted stance on party unity. If unified government provides the necessary political cover to a president choosing to use force, a president facing divided government should be less likely to make such a decision. An embattled president resists acting in a way that will further alienate the majority party, on whose support he relies for legislative productivity.

However, that is not the only theoretical story when it comes to divided government and the use of force. A president facing a hostile Congress (*C*), in fact, may be just as willing to employ military force as one operating under unified government. Most obviously, the president may determine that there is nothing to lose by acting unilaterally in the face of political opposition (Meernik and Waterman 1996, James and Hristoulas 1994). If the majority in Congress is unlikely to support presidential initiatives regarding everyday political issues, then the president may see little reason to submit himself to congressional whims regarding the use of force. Indeed, given the likely rally effect in the general public, and even among members of Congress (Stoll 1987), the president may gain the upper hand, at least temporarily, by engaging in military activity.

Testing the diversionary view of presidential uses of force, Meernik and Waterman (1996) generally dispute the nature of this claim, although it should be noted that they use measures of party *support* to specifically investigate the diversionary hypothesis. This argument states that presidents are motivated to use military force when political support in Congress declines, since military action will provide at least a

temporary boost in political support and fortunes (Stoll 1984). Meernik and Waterman (1996) find little support for any domestic influence on the use of force, and none for congressional impact. James and Hristoulas (1994), too, consider involvement in international crises to be more likely when the president's party does not control Congress, since "a president facing a hostile Congress may seek a victory in foreign policy, hoping to enhance public support for the White House" (ibid, 338).

Conclusion

As scholars continue to investigate the impact of domestic political factors on the decision to employ military force, many have come to see Congress as perhaps having more influence than traditionally thought. As with the other typical indicators of domestic influence, however, the exact nature of that influence is still under review. Additionally, while recent and current research projects (Howell and Pevehouse 2005, forthcoming) promise increasingly sophisticated measures of congressional influence, little is understood of the role congressional activity plays in influencing the president. The next chapter reviews the likelihood of congressional influence from a theoretical perspective, and introduces and tests for potential congressional power in two constitutional areas.

CHAPTER FOUR

“A GOOD BIT OF MUTTERING AND KICKING UP OF DIRT”: CONGRESS AND THE DECISION TO USE MILITARY FORCE³³

The president perceives that this is in the interest of the United States; this is not in the interest of the United States. This is dangerous to the United States; this is not. And they exercise their power. They have exercised the power from the beginning, and they're going to exercise it until the end or until we get a parliamentary system of government (Forrest McDonald, Senate Foreign Relations Committee Print July 14, 1988, 56).

The unilateral powers described in Chapter Two might lead one to conclude that the president faces little in the way of practical opposition in choosing to employ military force. The literature reviewed in Chapter Three might additionally cement the impression that, if there do exist possible constraints on the president, they come from domestic factors other than Congress. Yet most discussions of the president's unilateral powers in the *domestic* arena still stipulate their usage and effectiveness on specific Congress-specific conditions (Mayer 1999, Binder 1999, Cameron 2000, Howell 2004).

Are unilateral powers that different in the foreign policy arena? Is it realistic to presume such a limited role for Congress in national security matters involving the use of force? As Wildavsky (1966) suggested that the different dynamics surrounding foreign and domestic policies create incentives for “two presidencies,” so perhaps they also lead to

³³ Senator William Cohen, in a 1990 Washington Post editorial, emphasized the benefits to the president of seeking congressional support for military action to remove Iraq from Kuwait: “In spite of the general spirit of support for the deployment of American forces to the Middle East, though, there is a good bit of muttering and kicking up of dirt on the foreign policy playing field. Congress wants to assert its constitutional role in the decision-making of war rather than be forced into a post-departum rally-round-the-flag choral assignment” (Cohen 1990).

“two Congresses,” one fully engaged in the domestic process, and one on the sidelines of episodes involving military force.

In this chapter and the next, I join the effort to better understand the nature of the relationship between the presidency and Congress regarding the use of military force. I begin with the common assumptions, discussed earlier, that the president’s institutional advantages – unilateral powers, information, agenda control, commander in chief status – render direct, practical congressional opposition unlikely. I turn my attention, therefore, to more indirect modes of influence and develop a model in which Congress’ affect on the general political domestic environment is as important an influence on the president as any direct action Congress may, or may not, take.

Congress and Indirect Influence

The brief literature review regarding American politics and the use of military force reveals two important truths. First, with reference to the three primary explanatory indicators of domestic influence – public opinion, economic performance, and elections – significant differences exist involving prediction, operationalization, and interpretation of results. Second, and most important to this study, the domestic political decision-making environment is typically conceptualized in such a way that it begins and ends with the president. As mentioned in the last chapter, most studies implicitly nod their head to a traditional realist paradigm of international relations by framing the use of force decision as the product of a unitary presidential actor who presumably filters through a variety of domestic and international variables to arrive unilaterally at the appropriate course of action.

This may best reflect the actual decision-making process. Certainly more normative treatments of national security politics typically discount Congress as either unable or unwilling to oppose the president (Fisher 2004, Gelb and Slaughter 2005). Political science, however, tends to be more ambivalent: Congress matters *hardly at all* (Meernik 2004, 1994, Fisher 2001, Peterson 1994), Congress *sometimes* matters (Spitzer 1996, Hinckley 1994, Lindsay 1994, Lindsay 1993, Crabb and Holt 1984), or Congress *can and does* matter (Howell and Pevehouse 2005 and forthcoming, Kriner 2006, Lindsay 2003, Auerswald 1999, Auerswald and Cowhey 1997, Stockton 1993).

The more optimistic of the aforementioned studies represent a recent trend towards incorporating increasingly specific congressional indicators within models of the use of force. While earlier studies – if they included Congress at all – tended towards sparse measures such as dummy unified government models, recent work has focused on more sophisticated measures of partisan balance, chamber and congressional unity (Howell and Pevehouse 2005 and forthcoming, Kriner 2006), and chamber-committee ideological divides (Holm and Werner 2006).

I begin with a discussion of two general types of congressional influence, appropriations and consultation, providing regular targets of popular dissatisfaction regarding the congressional role in military matters. Outside observers often point to the appropriations power as the foremost example of a Congress uninterested in asserting its rightful authority to participate in the decision to employ military force (Fisher 2000, 2004, Gelb and Slaughter 2005). Members of Congress, on the other hand, tend to claim they are shut out of the political conversation, pointing out the numerous examples of presidents informing them only after troops, missiles, or aircraft have been deployed.

Given such pessimistic assessments of the appropriations and consultation functions, it is difficult to fathom much of a role for either. Far from it, I reemphasize the theme of Chapter Two: that the president holds almost all the cards in this political game, and evidence of congressional influence may be hard to find. What I do argue regarding these potential areas of influence is that they contribute to the overall atmosphere in which the president considers military force. Opportunities to use force have both international and domestic characteristics. Just as the president assesses the likelihood of success regarding the specific international threat, the domestic environment in which that assessment takes place should be significantly influenced by the current and recent composition and activity of Congress.

Potential indirect influence: Appropriations.

As discussed earlier, a broad Constitutional view of the decision to use force reveals a deceptive simplicity: not only does it declare war, Congress also funds the war. The appropriations power, then, is “a trump card of far-reaching consequence...[giving] legislators far greater opportunities to shape or block what presidents want to do” (Moe and Howell 1999, 864). Certainly the founders agreed, quickly agreeing that war-making authority belonged in the legislature, and that the “power of the purse” would serve as a failsafe backup should “parchment barriers” prove insufficient (Collier and Collier 1986, Kohn 1991).³⁴

³⁴ The specific provision, that appropriations for defense matters be limited to 2 years, is discussed most fully by Hamilton (Federalist 26) and Madison (Federalist 41) as a way to limit the threat of a standing military. The connection between funding a military capability and a military contingency seems clear, however, especially in terms of forcing a serious debate on the merits of either: “The legislature...will be *obliged* by this provision...to deliberate upon the propriety of keeping a military force on foot; to come to a new resolution on the point; and to declare their sense of the matter by a formal vote in the face of their constituents” (Federalist 26, 171, emphasis in original).

The importance of the appropriations power is obvious. Plainly, every military operation, from a small fleet's circumnavigation of the globe to a major land war, requires funding. And while enough resources may be available within the executive branch or the Department of Defense to initiate some operations, ultimately Congress must act in order for all but the smallest military endeavors to continue. If Congress denies or halts funding, military operations must almost certainly cease as well. At the same time, from a legal perspective, continued funding can also reflect legislative acquiescence. As early as the McKinley administration, a circuit court in Kansas stated that the congressional decision increasing the pay of military personnel engaged in China during the Boxer Rebellion amounted, in conjunction with the actual combat, to support for "a condition of war" (Fisher 2004, 58). Likewise, the annual decisions by both houses of Congress to continue financial support for the war in Vietnam reflected, in the opinion of the Second Circuit Court of Appeals, ratification of the war and "mutual and joint action in the prosecution and support of military operations" (Banks and Raven-Hansen 1994).³⁵

The appropriations power is important, but is it an effective source of congressional influence? One congressman's remarks concerning the Vietnam war reflect a fairly common perception of Congress' typical wartime role: "Is our proper role just that of a passive supply sergeant, to approve the bills for military requirements and

³⁵ *Orlando v. Laird*, 443 F.2d 1038, 1042 (2d Cir. 1971). The case hinged on the plaintiffs' argument that their ordered transfer to combat duty in Vietnam was illegal since Congress had never formally declared war. The circuit court decision affirmed the contention of the district court, which had "denied Orlando's motion for a preliminary injunction on the ground that his deployment orders were constitutionally authorized, because Congress, by 'appropriating the nation's treasure and conscripting its manpower,' had 'furnished forth the sinew of war' and because 'the reality of the collaborative action of the executive and the legislative required by the Constitution has been present from the earliest stages' (ibid, 317 F. Supp. 1013, 1019 (E.D.N.Y.1970)).

leave the whole question of what to do...entirely in the hands of the Executive?"³⁶

Despite occasional congressional success in passing legislation limiting or restricting funding for military deployments, such actions – in Southeast Asia, Somalia, and Rwanda – occurred largely after military operations had already terminated (Grimmett 2001).

More importantly, Congress can do little via appropriations to meaningfully constrain the use of force *ex ante*. This is largely because Congress provides the president with significant discretionary funding authority. For instance, the FY2006 defense appropriations bill grants the Secretary of Defense explicit power to shift up to \$2.5 billion upon his determination that such action is "necessary in the national interest" (Banks and Raven-Hansen 1994, 77).³⁷ For a general perspective, consider that the total reported incremental costs for *nine* contingency operations in Fiscal Year 1995 were \$2.22 billion (United States General Accounting Office 1996). Though such authority permits the president to respond to legitimate crisis situations, it is another example of the difficulty Congress faces as the principal in this relationship.³⁸

It appears, then, that this most "congressional" constitutional power may play an insignificant role in influencing the president. Given Congress' collective action problems, and the time constraints that dominate most crisis situations (Allison 1969, Oneal 1988, James and Oneal 1991, Wang 1996), the president may hardly consider the

³⁶ Representative Paul Findley, speaking of the events surrounding the Tonkin Gulf Resolution and Congress' responsibility during the height of the Vietnam War in 1968 (Congressional Record March 18, 1968, 6767).

³⁷ (Department of Defense Appropriations, Fiscal Year 2006. Pub. L. No. 109-148, SEC. 9003) reads as follows: Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to \$2,500,000,000 of the funds made available to the Department of Defense in this title: *Provided*, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: *Provided further*, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of this Act.

³⁸ It also reflects the institution's awareness of its own collective action problems (Kiewiet and McCubbins 1991). Members recognize that the political or military responses to conceivable, yet unknown, future contingencies can hardly be trusted to the assembly and operation of a disparate group of legislators.

possibility of direct congressional influence. If so, the search for evidence of a tangible appropriations role may require a more subtle approach. As with Howell and Pevehouse's (2005) arguments concerning congressional party balance, the president may consider Congress from a longer-term anticipatory perspective.

A president can not afford to blithely consider the use of military force. As numerous scholars have pointed out, the "audience costs" associated with public political defeats make it imperative that the president correctly anticipate the congressional mood (Fearon 1994, Linsay 1992, Bueno de Mesquita and Lalman 1992). Therefore, it is possible that, if a president considers Congress when mulling the decision to initiate military operations, he does so by assessing the support the body has shown in the relatively current national security arena. And, given the congressional appropriations role, a general feel for recent performance in this area could provide the president with inexpensive information about the prospective legislative mood regarding military action.

From a broad view, the defense appropriations process indicates two aspects of the general policy mood of Congress. First, as with all appropriations bills, the final product represents a policy response to the president, expressed in terms of relative priorities. As the "president proposes, and the Congress disposes," a signal emerges regarding how much the legislature shares the president's view of a particular program's importance. At the same time, the annual nature of the budget process allows the observer to form a "moving window" through which to gauge the dynamic nature of the relationship between the president and Congress.

Therefore, I suggest that the appropriations process signals the president concerning the general congressional mood towards matters of national security. When

Congress demonstrates its general support through the recent budget process, presidents feel greater freedom to use force, should the opportunity arise. Conversely, a less acquiescent Congress signals the president that the reins may not be as loose as he thinks. I discuss variable specification and hypotheses in a later section of this chapter.

Potential indirect influence: Ideology.

Members of Congress have long complained of their almost utter exclusion from discussions regarding the use of force: "Instead, Congress has almost always been treated to after-the-fact consultation, which is not consultation at all" (Senator Robert Byrd, quoted in Westerfield 1996, 102). For example, when President Reagan discussed impending air strikes against Libya with a group of congressional leaders in April 1986, the attacking fighter-bombers were over halfway to their target. President Kennedy's meeting with a small group of members on October 22, 1962 came after several days of secret ExComm meetings had already formulated the national response to Soviet missiles in Cuba (Hinckley 1994, 82).³⁹ And President Truman ordered American air and naval forces to defend South Korea in June 1950, then asked key congressional leaders for their support and opinions on the introduction of ground forces as part of the United Nations response.⁴⁰

Ironically, the president enjoys significant situational and political cover from such claims, thanks largely to Congress' own substantive efforts to claim a position in the debate. Section 3 of the War Powers Resolution, which requires that presidents consult with Congress before initiating the use of military force, specifically states "in every

³⁹ The meeting occurred at 5:00 pm; the president briefed the nation on the government's policy at 7:00 pm.

⁴⁰ It is worth noting that, in two meetings with the president, one before and one after he ordered ground troops into Korea, congressional leaders expressed "practically unanimous" support for the president's actions and leadership (see Acheson 1969, 409-413 and Fehrenbach 1963).

possible instance,” providing an almost infinite variety of loopholes for presidents seeking to avoid such consultation. So, when President Ford sent troops to retake the *SS Mayaguez* in 1975, he held that in doing so his administration had met the consultation requirement by notifying congressional leaders that troops were being deployed. In a related manner, President Carter argued that consultation in the 1980 Iran hostage rescue attempt was impossible due to the secret nature of the operation. And President Bush stated that he could not consult prior to the 1989 invasion of Panama due to Congress being out of session.

These examples seem to reflect presidents who are able to employ military force without constraint, subject only to after-action “consultation” with key congressional leaders. If that truly is the case, there is little point in further examining the importance of Congress’ consultation function. Since the president can always find a crisis-specific reason to avoid consultation with Congress, there is no reason to suppose a president would willingly increase decision-making costs by bringing additional political actors into the discussion (Buchanan and Tullock 1965, Moe 1983, Howell 2004).

As with the appropriations power, though, consultation may work in an indirect manner. Consider how this dynamic might work. A president surveying the international situation is confronted with an opportunity to use force. Some uncertainty exists regarding the potential reaction of Congress to a use of force, but the body will likely rally at least temporarily behind the president (Stoll 1984). However, the president also knows that a long or unsuccessful operation may jeopardize other policy priorities, for which he will need congressional support. And, to such an end, he also likely considers congressional leaders to be more consequential than rank-and-file members. It is

reasonable, therefore, to expect that president, even if choosing not to directly consult, will nonetheless take into consideration the likely opinions of those congressional leaders from whom he requires long-term support.

This suggests a possible indicator of congressional influence. Attempts to amend the War Powers Resolution have proposed the creation of standing "consultation groups," consisting of a variety of congressional leaders best able to interact with the president concerning the use of force (Grimmett 2004).⁴¹ In a congressionally idealized world, a president would consult with these individuals, and, given a more hawkish consultation group, find encouragement to use force. In the real world, the president is highly unlikely to consult with Congress *ex ante*, but he may well take into consideration the preferences of these members in key national security positions.

In investigating the practical role of Congress regarding the presidential decision to use force, I include measures designed to tap both of these potential areas of indirect influence. Before discussing the specification of these variables and the rest of the variables predicted to affect the president, I discuss the various attempts to define the "use of force."

⁴¹ The original House version of the 1973 War Powers Resolution actually required the president to consult with congressional leadership and appropriate committees, a provision eventually removed during conference (H.Rept. 93-287). Proposed amendments include S.J.Res. 340 (introduced May 8, 1986), S.J.Res. 323 (May 19, 1988), and H.R. 3405 (October 28, 1993). Each amendment called for varying approaches to the establishment of consultation groups. The first bill, introduced in the wake of President Reagan's decision to order air strikes against Libyan military facilities, was not acted upon. S.J.Res. 323 was supported by several congressional leaders and called for the formation of an initial group as well as a permanent consultative group. The former would consist of six members of Congress: the majority and minority leaders from both chambers plus the Senate pro tem and Speaker of the House. This group could "activate" the permanent group, which would contain 18 members, supplementing the initial group with the ranking and minority members of the Foreign Relations, Armed Services, and Intelligence committees from each chamber. H.R. 3405 proposed a standing group appointed by the House and Senate leaders, including "representatives of" the same chamber and committee leadership, with the addition of the Appropriations Committee leadership (see Grimmett 2004).

Conceptual and Methodological Debates over the Use of Force

In *The Pentagon's New Map*, Barnett (2004) recalls the "research war" spawned by budget debates following the collapse of the Soviet Union, as each military service strove to demonstrate that it alone was the "premier crisis-response force," and thus most deserving of Pentagon bragging rights and increased congressional funding. Barnett's own dilemma in assembling data on naval and Marine operations – how to meaningfully quantify military responses – reflects a continuing debate within political science. Though perhaps not part of a research "war," studies involving American military operations do raise important questions regarding the conceptualization and measurement of appropriate dependent and independent variables.

Most studies on the use of force by the United States cite Blechman and Kaplan's (1978) study, *Force without War*, as the starting point in the attempt to model the dependent variable. As the title suggests, the authors are interested in the peacetime use of the military – "in a discrete way for specific political objectives in a particular situation" (ibid 4). In exploring their theory, Blechman and Kaplan compile a list of 215 uses of American armed forces from 1945-1975. They rank each incident according to a 5-point scale ranging from minor force components to strategic nuclear-capable forces.⁴²

⁴² Below is the Blechman and Kaplan (1978) ranking system for uses of force. NOTE: for modeling purposes, I reverse the ranking, so that scale ranges from the least severe (1) to the most severe (5).

1. Use of strategic nuclear unit plus at least one "major" force component (two or more aircraft carrier task groups; more than one ground battalion (approximately 1000 soldiers); one or more combat wings),
2. Two or three "major" force components used, but not strategic nuclear units,
3. Either one "major" force component used but not strategic nuclear units,
4. At least one "standard" force component (one aircraft carrier task group; no more than one battalion, but larger than one company (approximately 200 soldiers); less than one combat squadron) but no "major" and no strategic nuclear units
5. "Minor" components of force used only (no aircraft carriers; no more than one company; less than one combat squadron), and no strategic nuclear units

Subsequent research (Zelikow 1987, Fordham 1998) updates the data to include 358 separate incidents, between 1945 and 1994. Most studies, however, focus on the “major” uses of force comprising the three highest levels, involving various combinations of nuclear-capable forces and/or large conventional forces (Ostrom and Job 1986, Zelikow 1987, DeRouen 1995, Fordham 1998).

Howell and Pevehouse (2005) further update the use-of-force data by extending the time series to 2000, and by correcting what they argue are mistakes in the original data. Though their data are not yet available, their amendments to the Fordham (1998) data set apparently move numerous incidents from the major to the minor categories, as Fordham cites 358 total events from 1945-1994, with 184 of those considered major. Howell and Pevehouse’s (2005) data set includes 383 total uses of force, with 141 major uses and 242 minor.

As part of a long running Congressional Research Service project, Grimmett (2004, 1) lists 315 “instances in which the United States has used its armed forces abroad in situations of military conflict or potential conflict or for other than normal peacetime purposes.” The usefulness of Grimmett’s data lies in its historical breadth (1798-2004), as it begins with the “pseudo-war” with France in 1798 and proceeds through recent anti-terrorism activity in various countries. The data is limited, however, in that it consists of little more than brief enumerations of the events; Grimmett himself states that it is intended “primarily to provide a rough survey of past US military ventures abroad, without reference to the magnitude of the given instance noted” (ibid, 1). It also does not include military activity occurring within the United States, such as the numerous 18th and 19th century campaigns against Native Americans.

Finally, scholars of international conflict often employ data from either the Militarized Interstate Dispute (MID) or International Crisis Behavior: Part Two (ICB2) datasets. These collections provide valuable resources for analyzing interstate behavior, and the MID set in particular is very popular in international relations studies.⁴³ Gowa (1999) uses MID data in her investigation of the democratic-peace, and finds little support for domestic political influences on the use of force. Admitting its rather broad interpretation of “use of force,” Gowa’s (1999, 30) study reports 264 total United States MIDs from 1870 to 1992.⁴⁴ Fordham and Sarver (2001, see also Meernik 2004), however, argue that, due to problems of coding and inclusion, MID data do not allow for an adequate test of United States decisions to employ military force.⁴⁵

The Issue of “Opportunity” and the Use of Force

Most studies that use event counts of military deployments as the dependent variable make a similar basic contention, based on their similar units of analysis. Whether tying the use of force primarily to international dynamics (Meernik 1994, Meernik and Waterman 1996, Gowa 1998) or arguing that domestic factors play into the equation (Ostrom and Job 1986, James and Oneal 1991, DeRouen 1993, Wang 1996, Fordham 1998, Meernik 2000, Howell and Pevehouse 2005), such models essentially connect explanatory variables to an actual phenomenon. This may seem straightforward,

⁴³ See also Dennis Foster (2006) for an application of MID data to a study of how other actors in the international arena view American presidents under varying levels of congressional party support.

⁴⁴ Howell and Pevehouse (2005) also test their model using data from the MID collection, and find no significant change to their hypotheses, though their results counter Gowa’s failure to detect domestic influence.

⁴⁵ Peet (2001) underscores the difficulty of studying U.S. employment of military force by comparing the MID data with Grimmett’s use of force data:

For the time period from 1816 to 1992, the Grimmett CRS Report identifies 212 events involving U.S. use of force, and the MID data identify 246 events. Yet, the two data sets identify only 110 of the same events...[those] in the Grimmett CRS Report do not appear in the MID data because they do not meet the operational definition of a militarized interstate dispute” (82).

but it holds important implications. The dependent variable – military operations that actually occur – is considered to result primarily from the impact of the proposed independent variables.

This immediately raises a concern. What of those instances in which force is discarded as an option? Are we going to learn as much about our proposed explanatory variables if the dependent variable is always “on”? What of those years or months when, for instance, popularity was high (or low, depending on the particular hypothesis) but no use of force took place? Does one attribute such a finding to the impact of the explanatory variable, or could it be that the international environment provided no opportunity for employing force.

By disregarding those situations in which the use of force is considered, but not employed, we miss the opportunity to more completely understand both those factors that point to the use of force, as well as those that limit its attractiveness as a policy choice (Meernik 1994, 2004). As Howell and Pevehouse (forthcoming, 60) argue, “All we can say, in the end, is that certain factors positively (or negatively) contribute to rates of foreign military deployments, while others yield no discernible impact at all.” Further, citing Most and Starr (1989), James and Hristoulas (1994) argue that the need for opportunity and willingness in the use of force limits the search for direct relationships between domestic and foreign activity: “instead, under certain circumstances, domestic strife may increase the likelihood of foreign conflict” (330).

In light of this, some scholars have undertaken to shift the unit of analysis from simply the “use of force” to the “opportunity to use force” (Meernik 1994, Meernik and Waterman 1996, Howell and Pevehouse, forthcoming). The dependent variable in such a

case becomes, roughly, “force employed given the opportunity to employ it,” rather than simply “force employed.” And for our purposes – exploring congressional-presidential relations – the explanatory variables now offer insight into the specific political and strategic environment in which the president considers the use of force.

It is one thing to argue for the importance of opportunity as the proper unit of analysis, however, but quite another to devise a useful measurement for this concept. The two basic approaches in the literature simply involve different thresholds for determining an opportunity. At one end of this extreme are the criteria of Job and Ostrom (1986) and Meernik (1994, 2004, Meernik and Waterman 1996) for determining when events in the international arena pose a sufficient enough threat to the United States to cause the president to consider a military response. By this measure, “opportunities to use force” contain evidence of the following:

1. a perceived current threat to the territorial security of the U.S., its current allies, major clients, or proxy states;
2. a perceived danger to U.S. government, military, or diplomatic personnel; to significant numbers of U.S. citizens, or to U.S. assets;
3. perceived or potential advances by ideologically committed opponents of the U.S. (i.e., communists, “extreme leftists,” militant Islamic extremists) be they states, regimes, or regime contenders;
4. perceived losses of U.S. influence in regions perceived as within the U.S. sphere of influence, especially Central and South America;
5. inter-state military conflict of potential consequence; in human and strategic terms; or events, because of civil disorder, threatened destruction of a substantial number of persons (Meernik 1994, 123).

These criteria comprise a reasonable method of distinguishing decisions to use force from those situations in which force was perhaps considered but ultimately not used. Mitchell and Moore (2002) cite them in arguing that the choice to use the “opportunity to use force” as the unit of analysis lessens the potential for aggregation bias and recognizes the inherent nature of the force decision: “a political event that can be

initiated on any day while the president is in office” (Mitchell and Moore 2002, 459). At the same time, however, shifting the unit of analysis to the opportunity to use force introduces its own problems of aggregation.

Howell and Pevehouse (forthcoming) argue that Meernik’s (1994) method seriously undercounts the international opportunities that confront a president. First of all, they point out that Meernik’s expansion of the Job and Ostrom (1986) database runs the risk of systematically biasing the president’s perception of an opportunity. Because Meernik attempts to discern which, of a relative handful, of international events catch the president’s attention sufficiently to cause him to consider using force, he necessarily adds an element of endogeneity to the conceptualization of opportunity. As others have suggested, presidents may perceive opportunities for a variety of reasons, from economic (Wang 1996, Fordham 1998) to political (Stoll 1984, Ostrom and Job 1986), to the strategic actions of potential adversaries (Leeds and Davis 1997).

Howell and Pevehouse (forthcoming) also point out the difficulty of replicating Meernik’s data, since the criteria require the researcher to consistently determine idiosyncratic factors such as “perceived” threats, dangers, and losses. Howell and Pevehouse, in turn, suggest an alternative approach in the pursuit of an objective measurement of opportunity exogenous to presidential perception. They introduce a large dataset of opportunities, based on content analysis of front-page *New York Times* articles. Their primary interest is to “identify when presidents deploy troops abroad to address a well-defined crisis or a series of crises” (202). Their effort produces “a tremendous amount of data,” and specifically identifies nearly 17,000 international crisis events from 1945 to 2000, to which a president could choose to respond militarily.

For two reasons I opt to use the data compiled by Meernik (1994, 2004). First, it is readily available and within the scope of this project. As of this writing, the Howell and Pevehouse (forthcoming) data have not been made available to other scholars, and, as the dataset is the result of a long-term collaborative effort among numerous scholars and research assistants, is not easily replicable. Second, the concerns regarding the Meernik (2004) data, while not insignificant, should not threaten the validity of the study.

Interestingly, Meernik's attempt to avoid overcounting, which results in a much smaller universe of opportunities, and which Howell and Pevehouse highlight as a weakness of his methods, may actually provide a reasonable picture of reality as the president gathers information on potential opportunities to use force. No doubt, crisis events of some type occur regularly throughout the international arena, and many of these could conceivably be opportunities for the president to employ military force. In some regards, then, the 50-year period from 1950-2000 may have, in fact, presented 17,000 potential opportunities to respond with force, as Howell and Pevehouse (forthcoming) find.

However, it seems reasonable that the various filtering techniques institutionalized within the presidency over the years might strategically eliminate a great number of the "lesser" potential opportunities, while keeping the informational focus on the "greater" foreign policy issues. Moe (1993) writes of the "centralization" tendencies within the institutionalized presidency, whereby as much policy decision-making as possible is undertaken "in here" – in the White House or Executive Office – as opposed to "out there" among executive agencies, interest groups, and congressional offices. The various committees and working groups within the National Security Council, and more

specifically, the particular institutional creations of various presidents – Johnson’s “Tuesday Lunch Group” or Carter’s “Friday foreign policy breakfasts” – inevitably work to filter the foreign policy information that makes it to the president.⁴⁶

Meernik’s (1994, 2004) additional work on the Job and Ostrom (1986) dataset boosts the total number of opportunities to use force between 1948 and 1998 to 605, with a total of 318 instances in which military force was used. After comparing Meernik’s data with other common use of force datasets (Fordham 1998, Fordham and Sarver 2001, Grimmett 2004), I report 625 opportunities to use force and 339 actual uses from 1948 to 1998.⁴⁷ Of these uses, 227 are classified as “major” uses, meeting the criteria for the three highest categories on the Blechman and Kaplan (1978) scale.⁴⁸

⁴⁶ Of course, one could argue that the various editors of a major newspaper such as the New York Times serve a similar function, moving only the most important stories to the front of the paper, while relegating stories of lesser perceived importance to the back.

⁴⁷ Several discrepancies exist between the various datasets used to analyze the use of force (see Peet 2001 and Fordham and Sarver 2001 for discussions of the strengths and weaknesses of various sets). Most notably, many scholars omit the Korean and Vietnam Wars. As prime examples of incidents involving presidential-congressional interaction, the initiation of these conflicts warrants inclusion. At the same time, I control for the huge outlays of troops and resources by including a dummy variable signifying the years of U.S. involvement. In addition, I include specific decisions to escalate or alter the focus of the fighting in Vietnam, such as the temporary invasions of Cambodia and Laos, as well as individual air campaigns such as LINEBACKER I and II, which took place after the bulk of ground forces had been removed from the theater and represented strategic American responses to North Vietnamese military and diplomatic actions. In another example, the MIDI database considers the conflict in Laos as a single civil war that began in 1962 and continued until 1973. However, the United States involved itself in the conflict at various times during this period, with a variety of airpower, special forces, ground forces, and other means. It is quite likely that specific presidential initiative led to each escalation and shift in the strategic approach of the United States military as related to Laos. Therefore, I use Fordham’s (1998) update to the Kaplan and Blechman (1978) database in coding separate uses of force in Laos.

⁴⁸ Since the unit of analysis is the opportunity to use force, specifically the start of the opportunity, one must be careful assigning the correct presidential administration to certain events. The military coup in El Salvador that occurred in January 1961 took place just after the new Kennedy administration took office. However, the civil war in the Congo, listed as an opportunity beginning in January, 1961, had its roots in the summer of 1960 during the Eisenhower presidency. The three November 1963 events – the assassination of South Vietnam President Ngo Dinh Diem, the Iraqi coup, and the issue of Cuban insurgents in Venezuela – occurred prior to the assassination of President Kennedy. The FMLN “final offensive” occurring in January 1981 took place only 10 days before the inauguration of President Reagan. Finally, each of two January 1993 events occurred during the Bush and Clinton administrations. President Bush issued an ultimatum to the government of Iraq concerning violations of the southern no-fly zone, and authorized air and missile strikes against anti-aircraft sites in Iraq. Days following the inauguration of President Clinton, riots in Zaire threatened American lives and ultimately led to French military intervention.

Table 4.1 Opportunities and Uses of Force

President	Uses of Force (opportunities)	Percent used force	Congress	Uses of Force (opportunities)	Percent used force
Truman	14 (43)	32.6	80	6 (16)	37.5
			81	7 (15)	46.7
			82	1 (12)	8.3
Eisenhower	50 (82)	60.1	83	8 (15)	53.3
			84	7 (16)	43.8
			85	18 (25)	72.0
			86	17 (26)	65.4
Kennedy	35 (55)	63.6	87	22 (38)	57.9
			88	13 (17)	76.5
Johnson	39 (67)	58.2	88 ⁴⁹	19 (23)	82.6
			89	11 (23)	47.8
			90	9 (21)	42.9
			91	9 (25)	36.0
Nixon	24 (62)	38.7	92	8 (20)	40.0
			93	7 (17)	41.2
Ford	10 (26)	38.5	93 ⁵⁰	1 (3)	33.3
			94	9 (23)	39.1
Carter	21 (46)	45.7	95	8 (17)	47.1
			96	13 (29)	42.9
Reagan	74 (110)	67.3	97	17 (26)	66.7
			98	29 (38)	76.3
			99	14 (25)	56.0
			100	14 (21)	66.7
Bush	28 (53)	52.8	101	15 (28)	53.6
			102	12 (24)	50.0
Clinton	43 (80)	53.8	103	16 (31)	51.6
			104	16 (30)	53.3
			105	12 (20)	60.0
Total	338 (624)	54.2			

Table 4.1 displays the history of opportunities and uses of force per president as well as per congressional session. In terms of the percentage of opportunities in which a president used military force, the data ranges from Ronald Reagan's 67.3% to Harry

⁴⁹ Kennedy's death occurred just before the half-way mark of the 88th Congress' session.

⁵⁰ Nixon's resignation on August 9, 1974 left a campaign-minded 93rd Congress less than a half-year under President Ford.

Truman's 32.6%. Different sessions of Congress also witnessed disparate percentages of force employment. The 83rd Congress, serving during the Korean War, saw President Truman respond with military force only once out of 12 opportunities, while the 88th Congress, which overlapped the Kennedy and Johnson administrations, saw nearly 83% of opportunities answered with military force. Interestingly, both the 83rd and 88th Congresses were led by Democratic majorities in both chambers, meaning both the highest and lowest percentages of force-per-opportunity occurred during periods of unified government. Such an isolated finding could support a very incomplete claim that congressional partisan balance, and therefore perhaps Congress itself, does not seem to affect the presidential decision to use force. The next session addresses the various explanatory variables with which I more systematically test for domestic and Congressional influence in the political arena surrounding the use of military force.

Explanations for the Use of Force Decision

As discussed earlier, I test for potential congressional influence in two ways: appropriations and the political preferences of key congressional leaders. In addition, I include variables which many argue play important roles in determining the likelihood that a president chooses to use military force. Theoretical justification for many of these variables was covered in the previous chapter, and the variables fall generally into categories of congressional, domestic, and international influence.

Congressional Influence: Appropriations and Consultation

I test for influence in the appropriations process in two ways. First, I employ a variable – *budget* – that measures the difference between presidential defense budget

requests and the amount appropriated by Congress.⁵¹ Larger values of this variable indicate that Congress provided less than the president requested, and, if such a signal of congressional dissatisfaction affects presidential behavior, it should mean a smaller likelihood of using force. Alternatively, presidents may simply consider Congress' final appropriations product as indicative of its support. Therefore, I include a measure – *appropriations* – of the current fiscal year appropriations level (measured in constant 2005 dollars), and predict a positive relationship between that variable and the likelihood that the president uses force.⁵²

Regarding the potential for consultation, I suggest that presidents will be more likely to engage in military force when more conservative members of Congress hold key “consultative” national security leadership (NSL) positions.⁵³ I define “national security leaders” as the legislators holding those positions proposed in 1993 as components of a “Standing Consultative Group” designed to “facilitate improved interaction between the

⁵¹ Budget requests and appropriations are adjusted for constant 2005 dollars, and are comprised from Department of Defense Comptroller estimates, Congressional Quarterly Almanacs, and Congressional Research Service reports (Daggett 2006, Carter and Coipuram 2005).

⁵² I recognize that there are different approaches to dealing with the effect of defense appropriations. Here I assume that any overall message or signal stemming from congressional action on defense spending will show up during the fiscal year, rather than two or three years down the road.

⁵³ Other scholars have attempted to tap “hawkishness or dovishness” as ideological indicators, rather than simply “conservative or liberal” (Lindsay 1990). The American Security Council compiled a National Security Index (NSI) for each member of Congress from 1976 to 1994, scaling recorded votes on defense and foreign policy issues from zero to one hundred, with zero indicating a dove and 100 a hawk. By using a measure based on specific issue-area voting, one reduces a potential problem with traditional multidimensional measures, such as ADA scores, in which ideological effects are blurred when members take liberal stances on some policy matters, while voting conservatively on others.

Such measures are not without problems, though. First of all, the American Security Council's index is comprised of only ten roll call votes per congressional session. Ten votes, even on large-scale, visible policy matters, may not capture every facet of an individual's national security views over a two-year period. At the same time, roll call votes, while frequently the only quantifiable evidence of a member's policy preferences, indicate a single preference at the final stage of an often intricate, strategic process. There are other complaints as well, however, as Groseclose (1994) points out in criticizing the NSI rating. He argues that such measures imply interval-level meaning from the data, when in fact the data may only reflect ordinal relationships. A hypothetical member's rating of 50, though the same distance from both a perfect dove (0) and hawk (100) may not reflect an equal difference in preference from the median member to the more extreme individuals.

executive branch and Congress on the use of U.S. military forces abroad” (Grimmett 2004). The members include the Speaker of the House and Senate Majority Leader, the minority leaders from both chambers, and the chairs and ranking minority members of the committees on foreign policy, armed services, intelligence, and the appropriations national security subcommittees.⁵⁴

To indicate the ideology of those in national security leadership positions, I use DW-NOMINATE scores (Poole and Rosenthal 1997), which are comparable over time, and which generally range from -1 (extremely liberal) to 1 (extremely conservative).⁵⁵ I use the median score for all members in congressional national security leadership positions at the time of each opportunity to use force. I predict that more conservative members will, on average, have stronger tendencies toward supporting the use of force, given an opportunity.⁵⁶ Therefore, the likelihood that a president engages in military action, given the opportunity, should be greater the higher the *NSL preference* score.

Congressional influence: Party Balance

Based on the discussion of this variable in the last chapter, I include Howell and Pevehouse’s (2005) three measures of party strength in my model. The first measure, *unified government*, takes a value of 1 if the same party controls the presidency and both

⁵⁴ Since the dependent variable includes the years 1948-1998, but the Intelligence Committees were formed in the 94th Congress (1975), I also include the chair and ranking minority member of the Defense Production Committee, which dealt with national security issues and the armed forces and operated from the 80th to the 95th Congress (1947-1979).

⁵⁵ It should be noted that DW-NOMINATE scores indicate ideology primarily along an economic dimension, and are therefore not measures of national security “hawkishness,” per se. However, as Poole and Rosenthal (1991, 958) point out, “the first dimension is very strong” and successfully classifies the vast majority of roll call votes: “a second dimension improves classification only by about 3%” (ibid).

⁵⁶ Again, ideology and foreign policy forms a problematic relationship as soon as one peels back the first layer back on the comfortable current assumption that conservatives support war efforts and liberals do not. Though such a simple rendering finds daily talk-show support, it may be that “liberal/conservative” is the wrong dimension. If one takes the question to include the peacekeeping and nation building tasks that comprise a great deal of contemporary military activity, perhaps Cronin and Fordham’s (1999) “nationalist” or “internationalist” dichotomy offers a more accurate way to conceptualize foreign policy ideology.

houses of Congress, 0 otherwise. I expect this variable to positively affect the likelihood that president chooses to use force. Additionally, *percent president's party* indicates the percentage of seats controlled by the president's party in both houses. Again, when the president's political party controls a greater percentage of Congress, the president should be more likely to use force, given the opportunity.

Howell and Pevehouse (2005) also include a measure designed to account for intraparty cohesion issues, particularly those associated with Southern Democrats in the 1950s and 1960s. Following their lead, I compute *legislative potential for policy change* (LPPC) scores, based on the work of Brady, Cooper, and Hurley (1979).⁵⁷ A larger positive LPPC score indicates that the product of the percentage and cohesion score of the president's party is greater than that of the opposition party. In other words, the sitting president enjoys a partisan advantage of some size in the particular chamber, and the members of his party are more likely to vote together. Such an environment, presumably, reduces the chances that a president will face opposition from Congress, and thus increases the chance that, given an opportunity, the president will use military force.

Other Domestic Explanatory Variables:

Presidential Approval: As discussed in the last chapter, observers predict that presidential approval affects the use of force in various ways. Most commonly, presidents are assumed to choose the force option when approval rates are high (Ostrom and Job 1986, James and Oneal 1991, James and Hristoulas 1994, Wang 1996) while

⁵⁷ The LPPC score for either chamber in any given term is calculated as follows: Chamber LPPC = [(president's party size in percent) x (cohesion of president's party)] - [(opposition party size in percent) x (cohesion of opposition party)] (Howell and Pevehouse 2005). Party cohesion scores are discussed in Brady, Cooper, and Hurley (1979), updated by Garry Young and Joseph Cooper, and available at <http://home.gwu.edu/%7Eyoungg/research/index.html>.

some suggest falling rates are more important (Ostrom and Job 1986, Meernik 2004). I test both hypotheses with data measuring the percentage of respondents approving of the way the president “is handling his job as President.” For current presidential approval (*approval*), I take the measurement from the most recent poll in the month preceding the opportunity to use force. For the change in approval (*approval Δ*), I include the difference between the current month and that from six months prior. The data is adapted from the Gallup Poll, compiled by Gerhard Peters, and acquired through the American Presidency Project website.⁵⁸ Following precedent, I predict that presidents will be more likely to use military force the higher the presidential approval rate, or when rates are falling.

Economic Performance. Again, the previous chapter discusses more fully the expected behavior and empirical evidence regarding the state of the economy and the use of force. The diversionary theory of the use of force argues that presidents engage in overseas military adventures to distract or divert the American public from troubles at home. These troubles are often deemed to be economic-based, specifically high inflation and high unemployment. Therefore, I include the monthly measures of unemployment and inflation from the Labor Department’s Bureau of Labor Statistics.⁵⁹ I assume a positive relationship between the indicators: presidents will be more likely to seek the popular and political boost that military activity promises during times of economic hardship (when inflation and/or unemployment rates are higher).

Elections: As mentioned, almost all analyses of domestic influences on the use of force include a variable indicating upcoming elections and/or political campaigns. For

⁵⁸ <http://www.presidency.ucsb.edu/data/popularity.php>

⁵⁹ The Bureau of Labor Statistics website - <http://www.bls.gov/> - includes statistics on both inflation and unemployment.

the most part, scholars employ dummy variables to indicate election years or election periods (usually August, September, October of election years). I slightly alter Wang's (1996) election measure by including a variable – *election month* – indicating the number of months into the current presidential administration. As the variable increases, the likelihood the president uses force should increase.⁶⁰

International Variables:

Recall that the basic explanatory framework regarding the use of military force divides predicted influence between domestic and international factors. Therefore, I test indicators of conditions within the international arena at the time of each opportunity. As mentioned, several scholars argue that this is the real area of influence, that international variables consistently outperform domestic variables in explaining the use of force (Gowa 1999, Meernik 1994, 2004, Meernik and Waterman 1996, Mitchell and Moore 2002).

Relative capabilities. Many studies of American uses of military force assume that presidents are more likely to choose force when they are confident in the success of such an endeavor. One indicator of a state's likely success in a military conflict is its relative share of global capabilities (e.g., Meernik 2004, Howell and Pevehouse 2005, Holm and Werner 2006).⁶¹ I employ a commonly utilized measure (*power*) of the United

⁶⁰ However, some (Gaubatz 1991, Auerswald 1999) argue that presidents are more likely to use force at the beginning of their administration, long before upcoming elections highlight potential problems and political opposition. Therefore, I also include a test in which elections is modeled as a third-degree polynomial, inserting the value of *election month* squared and cubed alongside with the original variable.

⁶¹ This measure – the share of global capabilities – is a fairly crude indicator of relative military strength, particularly when addressing the United States and its relationships with other states. The mean measure of U.S. capability from 1948-1998 is 0.18, while the mean for all other countries during the same period is 0.006. Additionally, other than the USSR and, occasionally, China, no other state exceeds 0.08 during this period. At the same time, however, measures of relative capability may point to more than a president's assessment of likely success. As Lake (1992) argues (primarily regarding Nineteenth-century European imperialism: "Democracies will expand only when the initial costs of conquest and ongoing costs of rule

States' share of global capabilities – the Composite Index of National Capability – from the Correlates of War Capabilities data set (Singer, Bremer, Stuckey 1972).⁶² I also include a measure (*troops*) of the total number of U.S. military troops deployed in the region in which the opportunity occurs (Kane 2004). Since a president would likely consider the chances of success greater when troops can quickly and relatively easily be deployed to the area of crisis, I predict that a greater number of troops in the area will be associated with a higher likelihood of force being used.

Situational factors. Several variables in this model indicate the general international environment in which the opportunity to use force takes place. Meernik (1994, 2004) argues that the U.S. is more likely to use force in response to an opportunity the greater the number of other actors involved in the crisis, since larger crises have a greater chance of involving states with stronger claims on American friendship and support. Thus, the greater the number of actors – *crisis actors* – involved in the crisis, the more likely the president will respond with military force. Additionally, Meernik (2004) finds that the U.S. is more likely to use force when attacks occur against American citizens or interests. Therefore, when these incidents – *violence* – are associated with the opportunity to use force, the president should be more likely to use force.

Next, since the United States should be more committed to those states in which it has invested larger amounts of foreign aid, I include a measure of U.S. total foreign aid – *foreign aid* – in constant 2005 dollars, for the year in which the opportunity occurs. Data

are less than the discounted present value of future economic profits” (29). Thus, a president’s decision to use military force may reflect the president’s consideration of probable victory *prior* to an actual crisis.

⁶² The concept of “capability” is the subject of much debate. For instance, Bennett and Stam (1997, 1998) include separate indicators for national capabilities (as measured here), military capabilities (total number of forces on each side), and military quality (total forces divided by total military spending). Data used here is available through the Correlates of War website: (<http://www.correlatesofwar.org/>).

is taken from the Agency for International Development's Overseas Loans and Grants data series (*The Greenbook*).⁶³ I predict that higher levels of aid will increase the likelihood that a president responds militarily to an opportunity.

I also include a measure (*conflict*) of the number of conflicts already occurring throughout the world in the month during which the opportunity occurs (Jones, Bremer, Singer 1996, Ghosn and Palmer 2003). In studying quarterly uses of military force, some researchers (Howell and Pevehouse 2005, Holm and Werner 2006) have suggested that more conflicts simply provide more opportunities for a president to use force. I follow suit in this analysis. While presidents might conceivably hesitate to insert a U.S. military operation into a particularly volatile world, they could see a chaotic international environment as providing an opportunity to initiate a relatively inconspicuous military operation. Therefore, I predict that a greater number of conflicts should be associated with a greater likelihood the president uses force.

Finally, I employ two dummy variables – *cold war* and *war* – to control for opportunities occurring during the Cold War (1948-1989) and during the Korean and Vietnam Wars (1950-53 and 1964-1973). Regarding the Cold War, I predict that fear of escalation and nuclear conflict with the Soviet Union will make presidents more hesitant to respond militarily to opportunities. I also control for U.S. participation in the Korean and Vietnam Wars since the large deployment of personnel and resources in support of these conflicts stretched the military to the point where intervention in other parts of the world may have been considered unfeasible.

⁶³(<http://qesdb.cdie.org/gbk/index.html>)

Results

Tables 4.2 and 4.3 present the coefficients, standard errors, and odds ratios from maximum likelihood estimations (logit) employing two versions of the dependent variable. I first estimate various effects on the likelihood of presidents initiating any use of force. These range from small incidents, such as the deployment of a platoon (approximately 40 individuals) to Nanking in November 1948 to protect Americans during the Chinese Civil War, to large-scale wars such as Korea and Vietnam. The second set of results displays the effects of the same explanatory variables on the likelihood of the occurrence of major uses of force. Major uses of force are those meeting the criteria for the three most severe categories of the Kaplan and Blechman (1978) scale. As indicated, each table is further subdivided by the particular appropriations variable included in the model.⁶⁴

Initial results suggest that the models fit the data well. The results of likelihood ratio tests are displayed below each column and permit a relative assessment of the impact of our explanatory variables, taken together, as compared to a “constant-only” model with no independent variables. As indicated, for instance in the results for the first model in Table 4.2, the probability of a chi-squared value of 149.34 (with 18 degrees of freedom) occurring by chance is virtually zero. The other models return similarly encouraging results.⁶⁵

⁶⁴ I discuss in greater detail below the absence of any apparent effect for political party. However, since Howell and Pevehouse (2005) find party to be significant indicators of the use of force, I estimate separate models with the three party measures: unified government, percent president’s party, and the intra-party cohesion LPPC scores. As the results of the other variables are largely unaffected by which party variable is employed, I display only the results for the percent president’s party variable here. Please see Appendix A for the results of the other estimations.

⁶⁵ Wald tests also reveal that the independent variables jointly improve each models’ fit over a constant-only estimation.

Table 4.2: Logit Estimation: All Uses of Force: 1948-1998
[dependent variable: military force employed, given the opportunity]

	Appropriations variable = current year appropriations total.		Appropriations variable = difference between the president's budget request and the final defense appropriation.	
Variable	Coefficient (standard error)	Odds ratios	Coefficient (standard error)	Odds ratios
Party	2.23	9.30	3.19	24.3
(Percent President)	(3.43)		(3.37)	
Appropriations	-5.08e-06	.999	1.77e-07	1.00
Variable	(3.61e-06) *		(3.57e-06)	
NSL preference	-.622	.537	.232	1.261
	(1.35)		(1.22)	
Election	.006	1.01	.007	1.01
	(.008)		(.008)	
Unemployment	.021	1.02	.084	1.09
	(.128)		(.120)	
Inflation	-.105	.90	-.086	.918
	(.060) **		(.059) *	
Approval Δ	-.015	.985	-.015	.985
	(.012)		(.012)	
U.S. Aid	.0003	1.00	.0004	1.00
	(.0003) *		(.0003) *	
Troops	-4.02e-07	.999	-4.90e-07	.999
	(7.72e-07)		(7.66e-07)	
Actors	.576	1.78	.582	1.79
	(.074) **		(.074) **	
Violence	1.69	5.42	1.70	5.47
	(.236) **		(.236) **	
Power	-18.4	1.00e-08	-18.23	1.2e-08
	(12.2) *		(12.8) *	
Disputes	.005	1.01	.009	1.01
	(.035)		(.035)	
Cold War	.593	1.81	.561	1.75
	(.722)		(.720)	
War	-.326	.722	-.621	.537
	(.553)		(.516)	
Constant	1.01		-1.38	
	(2.92)		(2.37)	
N	600		600	
Log likelihood	-324.78 †		-325.83 †	
Wald ($\chi^2_{df=24}$)	116.45 †		115.39†	

Note: ** indicates statistically significant at the $p \leq .05$ level (one-tailed test); * indicates $p \leq .10$ level (one-tailed test); † indicates χ^2 significant at the $p \leq .05$ level. Each model also contains fixed-effect terms for each presidential administration, which are not reported to conserve space.

Turning to the model presented in Table 4.2, which included all uses of force, one notices immediately the statistically insignificant values returned for the political party

measure. Though interesting, this finding is not necessarily surprising, since even Howell and Pevehouse (2005) report that party measures do not seem to affect the use of force when minor uses are included in dependent variable. Regarding the other variables indicating congressional influence, the results are a bit mixed. The appropriations variable is statistically significant in two of the three models, but the sign is in the wrong direction. The negative sign indicates that a larger defense appropriation is associated with a lower likelihood of force being used. This certainly seems counterintuitive, and receives closer scrutiny below.⁶⁶ The alternative measure of the appropriations power – the difference between the president's budget request and the congressional defense appropriation – does not achieve statistical significance in any of the models. Likewise, presidents seem unlikely to take the preferences of congressional national security leaders into account when choosing whether to use force.

Of the domestic variables predicted to affect the use of force, inflation is statistically significant but has the wrong sign, indicating that president are more likely to use force when inflation is lower. This finding, too, requires closer analysis below. Popular opinion behaves more expectedly. Falling presidential approval rates make the use of force more likely, reflecting Ostrom and Job's (1986) findings.⁶⁷ Finally, the international variables behave as predicted, with greater economic aid, more actors involved in a crisis, and recent violence against American citizens or interests all associated with a higher likelihood of using force.

⁶⁶ Estimations run using two additional appropriations measures – total one-year-lagged appropriations and the one-year difference in total appropriations – return similar results and are not displayed.

⁶⁷ Static presidential approval rates (*approval*) – measured by the most recent poll in the month prior to the opportunity to use force – do not return statistically significant rates and do not effect the other variables. Those results are omitted.

Table 4.3 presents results of the various hypothesized effects on major uses of force. The party measures, again, do not achieve statistical significance, an important finding specifically with regard to major uses of force. While Howell and Pevehouse (2005) do not find evidence that party matters with all uses of force, they demonstrate strong party influence on major uses. Here, on the contrary, none of the party measures – unified government, percent of the president’s party, or intra-party cohesion – return statistically significant values against either version of the dependent variable.⁶⁸

It may be that the difficulty we had in specifying a theoretical expectation for the effect of party (see Table 3.2 in Chapter Three) is somewhat reflective of the dilemma a president faces. Recall, unified government could, as most expect, lead a president to be more willing to use force, since he enjoys a likely margin of support from the majority party. At the same time, however, majority status could make a president more risk averse, unwilling to gamble future political support on an uncertain military operation now. Likewise, a president facing a hostile Congress may be more willing to use force, since his unilateral advantages allow him to shift the agenda and force Congress into a unwieldy defensive posture. The lack of evidence demonstrated by our model may in fact reveal more of the complexity of congressional-presidential relations than meets the eye.

The variable representing the ideological preferences of congressional leaders – *NSL preference* – fails to meet the lowest threshold of statistical significance in any of the models. Recall that the variable attempts to measure the potential “consultative” influence Congress may have with the president. As mentioned earlier, the fact that the president does not consult with Congress before initiating the use of force is a fact

⁶⁸ The results of the estimations using *unified government* and *LPPC Senate* are displayed in Appendix A.

Table 4.3: Logit Estimation: Major Uses of Force: 1948-1998
[dependent variable: military force (major) employed, given the opportunity]

Appropriations variable = current year appropriations total.			Appropriations variable = difference between the president's budget request and the final defense appropriation.	
Variable	Coefficient (standard error)	Odds ratios	Variable	Odds ratios
Party (Percent President)	1.75 (4.02)	5.75	2.86 (3.88)	
Appropriation Variable	-4.28e-06 (3.63-06)	.999	4.21e-06 (4.03e-06)	.999
NSL "consultation"	.678 (1.52)	1.97	1.35 (1.36)	3.86
Election	.013 (.010) *	1.013	.015 (.010) *	1.015
Unemployment	.174 (.144)	1.19	.210 (.138) *	1.23
Inflation	.111 (.064) **	1.12	.099 (.067) *	1.104
Approval Δ	.014 (.014)	1.014	.012 (.014)	1.01
U.S. Aid	.0006 (.0002) **	1.00	.0006 (.0002) **	1.00
Troops	1.8e-06 (8.4e-07) **	1.00	1.82e-06 (8.4e-07) **	1.00
Actors	.596 (.074) **	1.81	.601 (.075) **	1.82
Violence	1.04 (.240) **	2.83	1.08 (.243) **	2.94
Power	-2.60 (13.06)	.074	1.19 (13.54)	3.29
Disputes	.026 (.041)	1.026	.026 (.041)	1.026
Cold War	.075 (.906)	1.078	.029 (.904)	1.029
War	.182 (.637)	1.20	-.255 (.592)	.775
Constant	-5.66 (3.12)		-7.87 (2.72)	
N	600		600	
Log likelihood	-258.82 †		-258.98 †	
Wald (χ^2 df = 24)	99.63 †		98.94 †	

Note: ** indicates statistically significant at the $p \leq .05$ level (one-tailed test); * indicates $p \leq .10$ level (one-tailed test); † indicates χ^2 significant at the $p \leq .05$ level. Each model also contains fixed-effect terms for each presidential administration, which are not reported to conserve space.

expressed by scholars and members alike. Therefore, even if the variable does tap some aspect of the way in which the president views congressional leaders, it may be no more

likely for the president to consider the preferences of a potential "consultation group" than it would be for him to actually meet with members *ex ante*.

Domestic influence. The other domestic variables reflect assorted results. In all but one model, *election* is statistically significant and in the predicted direction. Measured as the number of months into the president's administration, the positive coefficient reflects that a president is more likely to use force as an election approaches.⁶⁹ Both economic performance variables performed as expected in the second set of models, while *inflation* alone achieved statistical significance in the first set. Bolstering the diversionary hypotheses of foreign policy, the positive coefficients indicate that presidents are more likely to use force when inflation and unemployment rates are higher. Finally, the coefficient for presidential popularity is not statistically significant.

International influence. In contrast to the somewhat sporadic performance of those measuring domestic influence, four of the international variables indicate the effect of situational factors on a president's decision-making process. In terms of U.S. foreign policy, greater amounts of both foreign aid to a particular state and the number of troops stationed in the respective region of the world both make a president more likely to use military force.⁷⁰ At the same time, when more international actors become involved in a crisis, or when American citizens or interests are harmed, the United States is more likely to respond with military force. Interestingly, and contrary to some analyses (Howell and

⁶⁹ Models in which the elections variable was estimated as a second- and third-degree polynomials indicated no support for the hypothesis that presidents are also more likely to initiate force earlier in their administrations, when unexpected problems can be better dealt with before elections. Those results are not displayed.

⁷⁰ This relationship is potentially endogenous. Certainly, current levels of troops or economic aid could also *reflect* past, rather than *predict* future, uses of force.

Pevehouse 2005), the Cold War era and participation in Korea and Vietnam seem to have little effect on the presidential decision to use force.

Discussion.

Appropriations. These results lend themselves to further discussion of two specific effects, as well as a more general comparison of major and minor uses of force. The first result that requires additional thought is the unexpected negative effect of appropriations. When measured as the total current defense appropriation amount, this variable achieves statistical significance at the ($p \leq 10$) level in three of the six models in which it is included, missing narrowly that measure of significance in the other three.⁷¹ The measure of the difference between the president's request and the final appropriation amount is not statistically significant, and also in the wrong direction.

Why would the amount appropriated in the defense budget be negatively associated with the use of force? Our original expectation was that the president would take from a large congressional appropriation – either absolute or in relation to his budget request – a message of general support from Congress regarding the president's defense priorities. The initial findings seems counter to that logic: smaller amounts are associated with a greater likelihood of using force. At least two possibilities present themselves, one with unilateral implications, the other reflecting perhaps more accurately the complexities of the congressional-presidential relationship.

⁷¹ I also performed an additional estimation using a slightly different measure of congressional appropriations. Since the appropriations process is treated here as an indirect form of influence, in which Congress signals the president regarding its position on defense matters, both recent and future, I lag the total defense appropriations amount by one year, as a way of controlling for the time it takes for spending changes to be felt throughout the defense system. Though the other domestic variables do not perform quite as well in that model, the appropriations measure is statistically significant at the ($p \leq 05$) level in each of the models run. The coefficient in each model is also negative.

The suggestion that the defense budget process sends a message from Congress to the president may, in fact, be true. However, the receiver of this particular message – the president – has unilateral authority that, in two ways, may negate what the sender – Congress – is trying to say. First of all, much as the prospect of facing an opposition-party-controlled Congress could conceivably make a president more likely to use force – since he cannot count on congressional support anyway – so a president receiving less than he requested may see an opportunity to use force as a chance to remind Congress of the commander-in-chief's authority. Such unilateral action may pay off more substantively as well, as the president leverages the same military action to argue for certain programs and weapon systems, and perhaps an increase in overall defense spending.

Secondly, and perhaps more likely, the rather blunt annual appropriations measure may conceal the complexities involved in determining how best to tie defense budgets to actual security threats. Considering the long-term requirements involved in assembling the huge defense budget, and the fact that much of the planning takes place months or years before the president makes his initial request, one must look at the final defense appropriation as the product of a multi-year planning process. If so, then any fiscal year's defense appropriation reflects, in part, responses to the crises and operations of at least the last couple years.

Therefore, the juxtaposition of a particular fiscal year's budget with the international crises of that calendar year may result in an apparent counterfactual impact of appropriations on the likelihood of using force. If the last year or two involved a higher number of international crises, this year's higher budget may reflect some of those

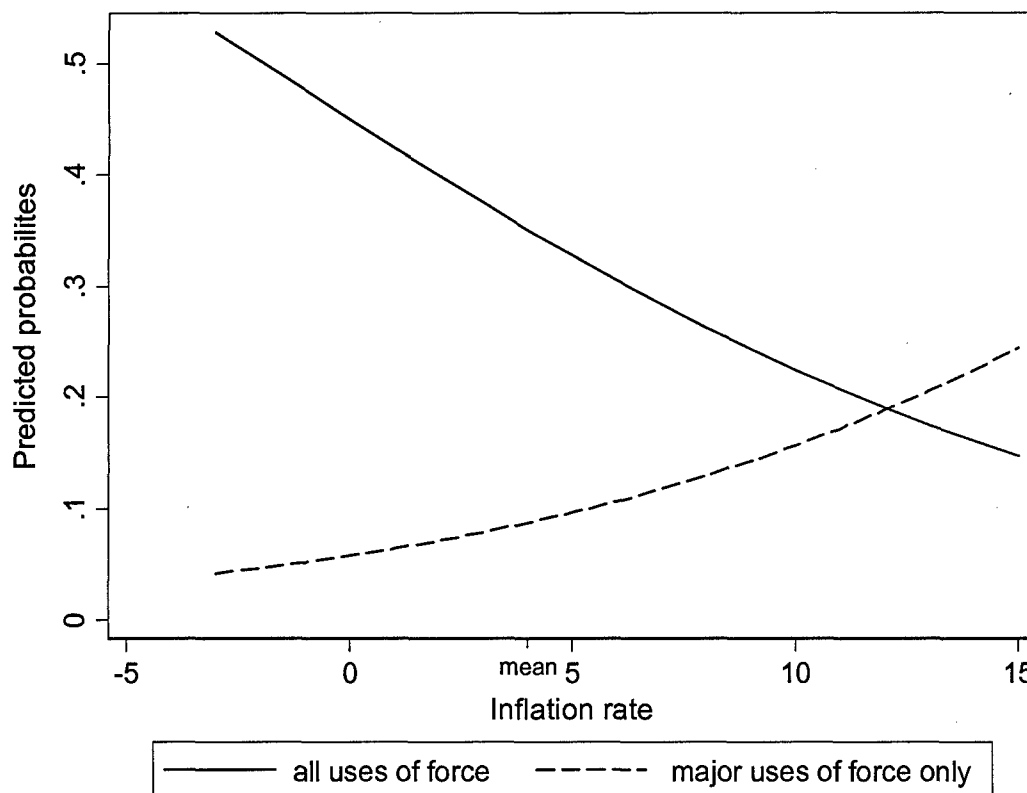
past concerns. If the current year happens to find fewer crises, then the higher current budget may seem to reflect a lower likelihood of using force, simply because there are fewer opportunities. This argument points toward possible future research, as the appropriations relationship likely holds important implications for understanding congressional-presidential relations regarding the use of force.⁷²

Inflation. An interesting policy implication of this study becomes apparent when considering the effects of the explanatory variables on all uses of force, as compared to major uses. As mentioned, a glance at Tables 4.2 and 4.3 reveals that economic performance, in the form of the inflation rate at the time of international crises, is a statistically significant predictor of the use of force. As apparent, however, is the different effects inflation suggests, depending on whether minor uses of force are considered as well as major. Figure 4.1 displays the predicted probability of the use of military force by the inflation rate, for both models: all uses of force as well as major uses only. When the dependent variable includes all uses of force, meaning small, sometimes barely noticeable operations as well as large-scale operations, inflation has a negative effect on the likelihood of force. In other words, a higher rate of inflation means a lower likelihood that the president chooses to use force. Odds ratios indicate that a one point increase in inflation is associated with a 7 to 9% decrease in the odds of a president using military force. Once we consider only major uses of force, however, the effect of

⁷² Though beyond the scope of this research, an initial test using the appropriations total lagged two-years does "flip" the sign on the appropriations coefficient, indicating that larger total appropriations from two-years prior may make the use of force more likely. This result, however, is far from an acceptable level of statistical significance.

inflation becomes positive. In those cases, a one point increase in the inflation rate is associated with a 10 to 12% increase in the odds that president uses force.⁷³

Figure 4.1 Predicted Probability of the Use of Military Force by Inflation Rate



This is an interesting finding. It may suggest that the diversionary hypothesis – that presidents use overseas military operations to divert attention from economic problems at home – may find more footing when major uses of force are considered. Perhaps presidents perceive that a more visible military endeavor is required to shift public attention off of economic problems, as indicated by high inflation rates.⁷⁴ At the same time, the higher spending that major uses of force will require (and unfailingly

⁷³ The difference in odds ratios depends on the inflation coefficient associated with a particular model. The coefficients are smaller (but statistically significant) when the appropriations variable is measured as the difference between the budget request and final appropriations amount. When the total appropriations amount is used, the inflation coefficients tend to be larger (still statistically significant).

receive) from Congress suggests a possible causal connection to rising inflation rates, while smaller operations can likely be funded through discretionary presidential sources, with little impact on the economy as a whole.⁷⁵

Conclusion

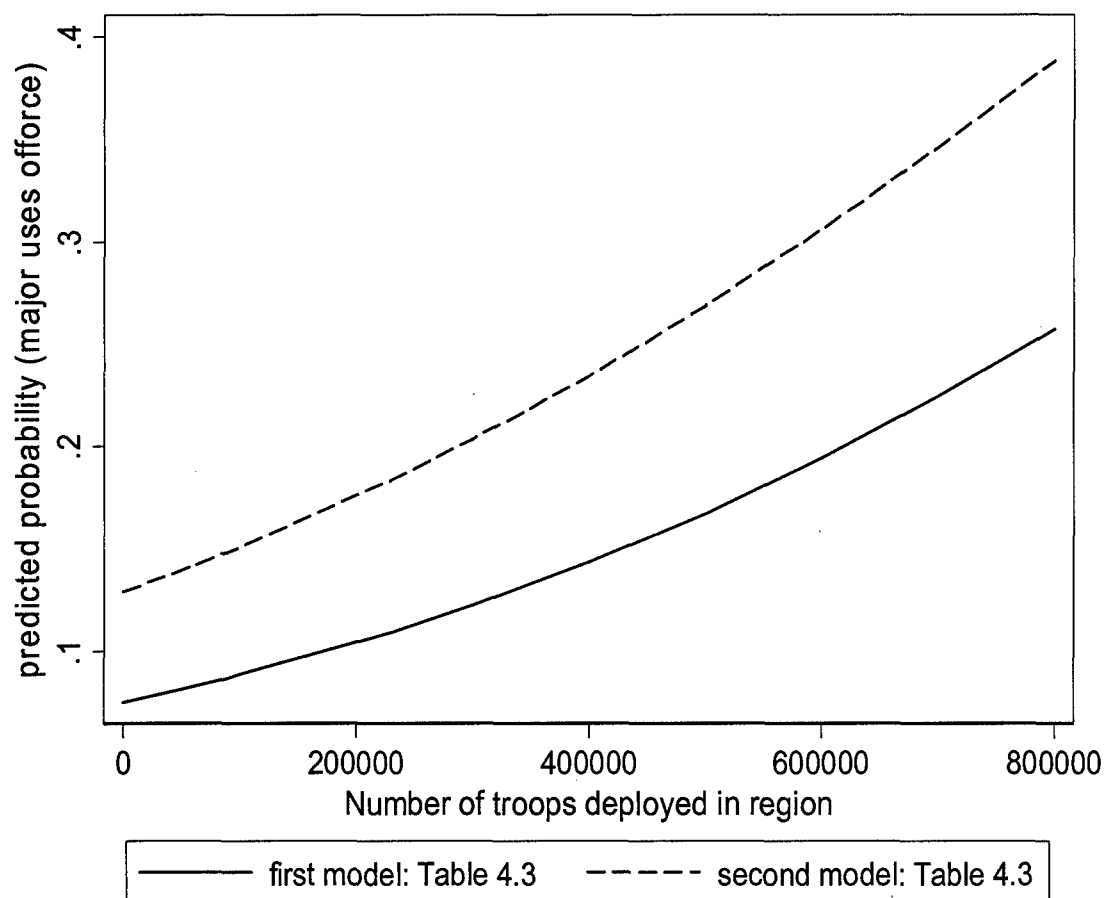
In sum, the specific congressional variables employed – party, appropriations, and “consultation” – do not provide much confidence that Congress holds any direct influence regarding the use of force. However, a closer look at the international variables points yet again to the need to consider more indirect modes of congressional participation and influence. As reflected in Table 4.3, both economic aid and the number of troops deployed in a particular region of the world positively affect the likelihood that the president initiates major uses of force. Figure 4.2 reflects the predicted probability of a major use of force given the number of troops in the region. The instinctive response is to pass off such variables as predicted international effects, part of the situational dynamics of the international environment. In this way, these variables can be considered in terms of “supply” characteristics. Particularly the deployment of troops presumably works in this way: presidents are more likely to use force when there are troops, supplies, and other logistical resources in the region. The use of force is thus less costly because the military tools are more readily available. One could interpret the

⁷⁴ Following Ostrom and Job’s (1986) lead, I also tested the effect of a variable comprised of the product of the misery index (inflation plus unemployment) and the percentage of respondents citing “the economy” as the most important national problem. The suggested relationship between these measures reflects the president’s perception of not only economic performance, but the public’s own concern with that performance. The effect of the variable is signed in the expected, positive direction, but does not achieve statistical significance in any of the models. This initially suggests that presidents deem raw numbers more important than public perceptions when considering the use of force.

⁷⁵ President Johnson’s misinformation campaign regarding the predicted early costs of military action in Vietnam were, in part, driven by his, and his advisor’s, concerns about an “overheating” economy and the prospect of rising inflation rates (Halberstam 1972, McMaster 1997).

Clinton Administration's unwillingness to respond meaningfully to the 1994 Rwandan genocide in this way: the relative lack of military resources in Africa made such an endeavor too costly for consideration.

Figure 4.2 Predicted Probability of Major Use of Force by Number of Troops Deployed in the Region



However, economic aid and military troops can also be viewed in light of their “demand” characteristics. Both variables represent specific policy decisions regarding American interests and, importantly, intentions. As Kane and Jones (2005, online) suggest, “the fact that U.S. troops are much simpler to quantify, and that other factors such as diplomacy and technology diffusion are quite impossible to quantify, means that

troop variables may just be serving as a proxy for a wider commitment.” In this light, the president is more likely to use force, not because of logistical convenience, but because previous political choices have determined the relative importance of a certain region or country or population. In this context, the inability of the United States (and others) to respond to the Rwandan genocide represented not only the immediate “supply” of available resources, bases, and logistical support, but also the numerous historical choices – “demands” – by American political leaders that placed that global region significantly far down the priority list that the aforementioned response capabilities were not available.

The importance of considering these international variables in terms of supply and demand lies in understanding the joint presidential-congressional role involved in determining American interests, and thus the assignment of resources and economic aid. As indicated by the models in this chapter, Congress does not seem to directly influence the president’s decision to use force. This is not surprising, given the unilateral advantages the president holds, and the collective action problems Congress faces. In many cases, Congress becomes aware of the decision to use force only after it has been made.

However, as the strong impact of economic aid and deployed troops indicates, Congress’ indirect role may have important consequences. The hearings, investigations, and negotiations involved in determining the recipients of American economic aid and the placement of military resources take place in an atmosphere much more conducive to the strengths of the national legislature. Perhaps Congress needs to consider that its role in the use of force question, most loudly associated with its lost authority to declare war,

is found not in a more constructionist view of the Constitution, but rather a more constructive view of long-term legislative responsibilities.

CHAPTER FIVE

“NIBBLING AT THE EDGES OF POLICY:” THE USE OF FORCE AND *EX POST* CONGRESSIONAL-PRESIDENTIAL RELATIONS⁷⁶

The evidence thus far seems to weigh against the influence of domestic politics on the decision to employ American military force. While indicating some effect for elections and economic performance, the analysis completed in the last chapter indicates that the role of Congress is, at best, an indirect one, realized through the authorizing and appropriating functions related to military manpower and foreign economic aid. As for direct congressional influence on the presidential decision to use force, none of the party variables achieved statistically significant effects on the decision to use force, nor did our indicator of leadership preferences. Though not necessarily a surprise, given the theoretical reasons to doubt congressional influence in the face of the president's unilateral advantages, the failure to find empirical evidence that party strength matters does counter other recent studies (Howell and Pevehouse 2005, forthcoming).

This chapter turns to the question of Congress and its *ex post* relationship with the president. Specifically, does Congress play a role in determining the length of time the president uses military force in a particular situation? This rather narrowly construed puzzle allows us a closer look at congressional-presidential relations in general. As indicated, it is not surprising that the results so far do not point to a significant *ex ante* congressional role in the use of force issue. The Constitution places Congress in the

⁷⁶ Congressional Quarterly Almanac (1983, 121):

position of having principal responsibilities, without effective principal control mechanisms. Most obviously, Congress is constitutionally endowed with the authority to declare war but also stricken by such collective action problems, information shortcomings, and constituent pressures, that few should expect Congress to meaningfully and directly influence the initial use of force. It may simply be too much to ask of this particular institution.

However, once the decision is made to employ troops, the potential exists for congress to reassert itself. I will discuss shortly whether we should expect Congress to do so, but the point remains that here, in the ex post arena, Congress may find itself once more part of the discussion. This is rather interesting when one considers the constitutional framework governing this policy issue. Congress' war-declaring role is most likely gone for good, rendered obsolete by the tendency of modern presidents to take advantage of the unilateral advantages of their office. To participate, then, Congress must assert itself ex post, on the president's traditional and constitutional turf, or find itself largely shut out of the issue altogether. Is this possible, or likely? Can one expect Congress, having lost one of its key constitutional roles, to challenge the commander in chief regarding his? This is a crucial question for the separate institutions sharing power under the American constitutional system.

Before turning to an analysis of possible congressional influence in the ex post arena, however, it is important to ask two related questions. First, why would Congress act to confront the president? Is such action in the best interests of the members comprising the institution? Second, what can Congress do? The answer to the first may help us understand what seem to be the rather limited options regarding the second.

Reasons for Congressional Action

Before investigating Congress and the duration of military operations, one must first consider whether Congress is likely to try to influence the president at all, and if so, why. A common normative perspective on this institutional relationship argues that congressional failure to confront the president over use of force issues reflects an inability to act, since surely members would, if they could, act to reclaim congressional legitimacy in the face of repeated executive usurpations. However, given the interaction of preferences and institutions in this issue area, perhaps a more limited response represents the institutional realization of the benefits of a role without responsibility (Meernik 1995).

Practical obstacles to congressional action

Members of Congress seek job security. As Bueno de Mesquita, et al (1999, 793) put it, "leaders are keen to stay in power." Whether single-minded in the drive for reelection or not, members are unlikely to act in ways that are both visible and contrary to the wishes of their constituents (Mayhew 1974, Arnold 1990). This has two consequences. For Stoll (1987) the rally effect is the key component in the linkage between uses of force and short-term congressional support for the president. Since presidential approval rates rise in the immediate aftermath of military operations (Mueller 1973, Parker 1995), unless a member has strong reason to believe his or her district supporters oppose the war, he or she will almost certainly join them in rallying around the president. So we should not expect initial opposition, except perhaps from members on one or the other ideological extreme.

The danger of the rally effect, especially for members of Congress (and 1992 incumbent presidential candidate George H.W. Bush), is in its relatively short-term nature. The public will likely approve of military action initially, but may later oppose an operation that appears less than successful. This raises the second consequence of Congress' electoral focus, because, unfortunately for elected officials, while the public can make relatively cost-free adjustments to initial policy positions, members of Congress often pay significantly steeper costs for high-profile position changes. Important anecdotal evidence includes the difficulty Senator Kerry experienced during the 2004 presidential campaign in trying to juxtapose his opposition to the war in Iraq with his October 2002 vote for H.J.Res. 114.

More importantly, however, members of Congress cannot fail to support the troops in the field. Even a hint of caution or concern over military progress, as Senate minority leader Daschle discovered in 2002, carries potentially fatal political costs. Therefore, electoral concerns mean Congress is likely to rally, along with the public, around the president, and continue to support the operation, even if unpopular, to avoid appearing unpatriotic or insensitive to the needs of the troops.

A final, but significant, practical reason to expect congressional inaction is simply the steep odds against success. If Congress has the opportunity to consider a resolution authorizing the use of force, or a supplemental budget request for an ongoing operation, the body is responding to a presidential initiative. Since the president has made the request, the practical political question for Congress is whether a majority of members are in agreement with the president's position.⁷⁷ Should the question later come before

⁷⁷ Of course, regarding the authorization of force, a majority of members (of both houses) could theoretically torpedo the president's intention to use military force by voting against the resolution.

Congress of reversing the status quo, the body would almost certainly face a presidential veto. Thus, while only a majority is needed to support the president's course of action, a supermajority would have to mobilize in subsequent opposition (Auerswald and Cowhey 1997).

Strategic obstacles to congressional action.

At one level, the decision to support or oppose the president's decision to use force is a gamble on the likely outcome of the endeavor. And an early institutional statement on either side of the issue can amplify the political effects of that outcome. Thus, a member's initial vote of support pays dividends when the operation succeeds. Likewise, the lonely "Wayne Morse" or "Ernest Gruening" vote of opposition to the deployment of troops appears prescient and courageous when things bog down.⁷⁸ However, as with any high-profile issue, members would prefer to be in the minority than to come out on the wrong side (Arnold 1990, Mayhew 1974).

This sets up a difficult political choice for individual members of Congress. To demand a role in use of force issues requires Members to put on public record statements and recorded votes of support or opposition. Since support is the initial default position, driven by the reality of the rally effect among constituents, the most strategic subsequent collective position for Congress may be the one, in fact, most often observed: clamoring about institutional legitimacy while avoiding as much as possible specific, potentially dangerous public positions.

However, as President Bush's veiled threat to pursue action against Iraq in 1990, with or without congressional approval, suggests, such action may not hinder the president's intention and ability to act unilaterally.

⁷⁸ Morse, of Oregon, and Gruening, of Alaska, both Democrats (Morse had switched parties earlier in his career), were the only two Senators (and only members of Congress) to oppose the 1964 Tonkin Gulf Resolution, which passed 88-2.

In fact, the best position of all may be for the institution to defer to the president and free ride on his efforts (Olson 1965). By putting the ex ante decision in the hands of a single decision-maker, other actors gain the ex post benefits of association ("I'm part of the victorious national effort") if the venture profits, but the safety of denial ("I couldn't do anything, my hands were tied") if it fails. If things go well, the president will benefit, and Congress – particularly members of the president's party – will proudly claim credit and public support. At the same time, if the operation, and by association the president, should flounder, members better positioned to distance themselves from the administration may be better served. The plight of congressional incumbents trying to explain their positions to potential voters, as the midterm 2006 elections demonstrated, is most severe when members have repeatedly taken public positions on one side or the other. When Arnold's (1990) "attentive publics" are watching, members are wise to avoid polarizing public positions. Thus, the institutional inability of Congress to confront the president in the war powers arena may in fact represent an institution content to demand its rightful role, while refusing the accompanying responsibility (Meernik 1995).

Possible Areas of Influence

I now turn to the question raised earlier. Apart from congressional willingness to confront the president, what options are available with which to attempt to influence an ongoing military operation? As with the initial decision to use force, the dynamics affecting ongoing military operations consist of both situational and political factors. Along with measures of potential congressional influence, I also include variables indicating how the current domestic and international environment affects how long a particular use of force endures.

As discussed earlier, while the historical record may provide some evidence of congressional assertiveness regarding ongoing military operations, the record proves much sparser when it comes to substantive influence. The explanatory variables I discuss below almost all carry high expectations of congressional influence, borne of supposed legislative victories. I suggest that hindsight has, in many cases, exaggerated the impact of Congress by substituting aggregate position taking and credit claiming for practical power.

Appropriations

A quantitative study of congressional influence in military operations would ideally include measures of the times Congress has constrained the president's ability to wage war by denying funds for unpopular activities. Certainly one should not expect frequent action prior to force deployments, since time constraints and informational asymmetries, not to mention the president's discretionary funding authority, often prevents Congress from considering its appropriations role. But even in the ex post arena, one finds little evidence of direct congressional constraint through the appropriations process.

The problem is really twofold. First, as mentioned in the previous chapter, Congress has repeatedly tied its own hands by delegating discretionary appropriations authority to the president and executive branch. These contingency funds and secret accounts provide the president "start up" funding for many military operations. For operations of short duration, the question of congressional funding may not arise, if at all, until the administration requests supplemental funding, likely after military action has concluded. Even with longer conflicts, where Congress may enjoy one or more

legitimate opportunities to consider the current policy, it is a policy and status quo of the president's making with which Congress must deal.

The president's agenda control leads directly to the second reason to doubt the efficacy of the ex post appropriations power. When Congress seeks to assert itself through the question of funding a presidential use of force, it faces a policy question that may have little to do with the original purpose of the military action. As President Johnson, having already initiated military operations in Southeast Asia with American "advisers," ships, and aircraft, famously reminded congressional members in May 1965,

Each member of Congress who supports this request [\$700 million supplemental appropriation]...is saying that the Congress and president stand united before the world in joint determination that the independence of South Viet Nam shall be preserved and Communist attacks will not succeed...To deny and delay this means to deny and to delay the fullest support of the American people and the American Congress to those brave men who are risking their lives for freedom in Viet-Nam.⁷⁹

Members of the 89th Congress considering this supplemental request were not deciding on the wisdom of following the conflict in Korea with a second limited war in Asia, nor whether the nation could afford it, nor of the prospects for success in such an endeavor. Their simple choice was whether to go on record "for" or "against" a policy of opposing communism and supporting the troops. It may not have been a fair representation of the policy issues at hand, but it was the state of affairs facing Congress. And, though some members apparently expressed reservations about the war and the funding request, the final vote – even after hours of heated debate in both chambers – was 408-7 in the House and 88-3 in the Senate (Elsea and Grimmett 2006). The president's agenda had carried the day by forcing Congress into an impossible choice.

⁷⁹ Lyndon Johnson, Special Message to the Congress requesting additional appropriations for military needs in Vietnam, May 4, 1965 (Woolley and Peters 2006, <http://www.presidency.ucsb.edu/ws/?pid=26940>).

At the same time Congress has voted occasionally to cutoff funding for certain military operations. A closer look, however, indicates that such assertiveness usually comes after operations have largely ceased. For instance, while Congress did pass legislation prohibiting the funding of ground combat incursions into Cambodia in 1970, every other significant restriction on funding in Southeast Asia came after American combat troops had almost entirely left Vietnam (Grimmett 2001). By the time the June 1973 legislation passed, cutting off funding for combat in Southeast Asia, only 22,000 troops remained in the country, and a cease-fire in January that ended the Linebacker II bombing campaign had effectively ended the American war (Clodfelter 1995). The compromise between Congress and President Clinton regarding funding for peacekeeping operations in Somalia cut off funding after March 31, 1994 and seemingly demonstrated congressional fortitude and influence in determining the duration of that operation. However, the president's decision to reinforce the troops in preparation for a gradual withdrawal came in response to the deteriorating situation on the ground rather than any specific institutional demands by Congress.

Hearings:

Significant anecdotal evidence exists regarding the importance of hearings as a congressional means of influencing the president. Indeed, the hearing room is the one place where Congress can theoretically compel high-ranking members of the executive branch to both speak and listen. For instance, prior to the 2003 invasion of Iraq, members of the Senate Armed Services Committee queried each service's Chief of Staff regarding specific funding and troop requirements for the impending operation.⁸⁰ In

⁸⁰ The hearing began a back-and-forth series of statements between the Army Chief of Staff, General Eric Shinseki and Deputy Defense Secretary Paul Wolfowitz, which grew into a very public and contentious,

1967 Senators grilled the Secretary of State during two days of testimony on Vietnam, “dramatically revealing a growing discontent with the administration’s policies and a determination to exercise some voice in future decisions” (Herring 1986, 201). Even during a more limited military operation, Armed Services Committee members directed 100 pages of questions at the Secretary of Defense during the 1987 Persian Gulf “reflagging” operation.

In addition to enabling “police patrol” oversight of the executive branch (McCubbins and Schwartz 1984), hearings afford members excellent opportunities to “position take” (Mayhew 1974) and expand political conflicts by publicizing differing points of view (Schattschneider 1975). Members of Congress also view hearings as a method for overcoming the significant information advantages enjoyed by the executive branch. Senator Wayne Morse, for instance, argued vehemently with Senate Foreign Relations Chairman William Fullbright to hold hearings to discuss not only the specific legislation, but also the broader implications of the proposed 1964 Tonkin Gulf Resolution (Halberstam 1972, 507).

Despite their attraction as a possible method of congressional influence, however, hearings are not without costs. Congress may be “at work” in committee, but time and energy spent on hearings necessarily subtracts from time and energy spent on issues of potentially greater interest to constituents. Unless members of Congress have strong indications that the public will notice or care about testimony concerning military operations, there may be little incentive to position-take through hearings. And, of course, hearings provide a forum for each side of a political issue to be heard, so that the

though indirect, debate concerning both differing opinions between military and civilian leaders as well as the relative balance of political power inside the Department of Defense (See Fallows 2004, Ricks 2006).

hearing designed to confront a president's policies may also include plenty of support for that policy, from the other side of the aisle.

Even hearings designed to gather information or shape policy may fall short of their goal. For one thing, while legally compelled to provide truthful testimony, little prevents executive leaders from hedging their words regarding administration goals and intentions. Indeed, some may consider evasive testimony to be in the national interest. Civilian and military leaders engaged in equivocation that bordered on deliberate misinformation in order to secure congressional support during early operations in Vietnam (McMaster 1998) and Iraq (Ricks 2006, Fallows 2004).

As suggested earlier regarding the appropriations power, the ability of Congress to influence the president through the oversight process may be indirect and long-term. Few international crises lend themselves to the slow mobilization and publicized diplomatic maneuvering that promotes national debate and an ex ante opportunity for Congress to question military force. And, as with every other area of potential action, the terms of debate change once troops are deployed. Thus, hearings are unlikely to be effective in compelling or influencing presidential behavior in the short run. However, they may serve to provide an indirect signal that Congress considers itself to have entered the political conversation concerning the deployment of military force, whether the president chooses to acknowledge it or not. Hinckley (1996, 97) suggests that

[H]earings announce to the White House, as well as the officials who must testify on the Hill, that certain things are on Congress's mind...if the hearings have an effect on policy, it is primarily in this indirect way, cueing executive branch officials as to what matters the members are concerned with and establishing their own record for later use...in most cases, the committee members are monitoring events – they are not deciding them.

Data

Dependent Variable:

As with the analysis of the decision to use force, Blechman and Kaplan's (1978) "political use of military force" dataset provides the starting point for a study of military operations. Several scholars (Zelikow 1984, Fordham 1998, Howell and Pevehouse 2005, Meernik and Brown forthcoming) have updated the data, to include uses of force through 2004 (Kriner 2006). I adapt Meernik and Brown's (forthcoming) readily available data for the period 1950 to 1995, making several small adjustments. Most noticeably, I include the Korean and Vietnam Wars, agreeing with Kriner (2006) that these episodes represent two of the key domestic conflicts between the president and Congress over the control of military operations, and to exclude them would greatly reduce the explanatory potential of the model. The unit of analysis is the duration month of a particular operation, and I report 1012 total observations, involving 226 total uses of force: 134 minor (level 1 or 2 according to Blechman and Kaplan (1978)) and 92 major uses (levels 3, 4, 5).⁸¹

Congressional influence: appropriations

As in the previous analysis, I test for influence in the appropriations process in two ways. Again, I employ a variable – *budget* – that measures the difference between presidential defense budget requests and the amount appropriated by Congress.⁸² Larger values of this variable indicate that Congress has given the president less than was requested, and, if the president interprets such behavior as a signal of congressional

⁸¹ . NOTE: for modeling purposes, I reverse the ranking, so that scale ranges from the least severe (1) to the most severe (5).

⁸² Budget requests and appropriations are adjusted for constant 2005 dollars, and are comprised from Department of Defense Comptroller estimates, Congressional Quarterly Almanacs, and Congressional Research Service reports (Daggett 2006, Carter and Coipuram 2005)

policy opposition, then this should be associated with shorter uses of force.

Alternatively, presidents may simply consider Congress' final appropriations product as indicative of its support or opposition. Therefore, I include a measure – *appropriations* – of the lagged fiscal year appropriations level (measured in constant 2005 dollars), and predict that smaller amounts will also be associated with shorter military operations

Congressional influence: consultations and leadership ideology

DW-NOMINATE scores (Poole and Rosenthal 1997) are used to indicate the ideology of those in congressional national security leadership positions. If conservatism roughly predicts a member's "hawkishness," then higher values among these members presumably provide the president a cushion of support to continue towards successfully concluding a current military operation. Again, I define "national security leaders" as the Speaker of the House and Senate Majority Leader, the minority leaders from both chambers, and the chairs and ranking minority members of the committees on foreign policy, armed services, intelligence, and the appropriations national security subcommittees.⁸³

The earlier analysis found no evidence that the *NSL preference* variable affected the president's decision to use military force. While there was little expectation that presidents would choose to consult with Congress prior to deploying troops or weapons, member preferences may influence the president's decision regarding the duration of an operation, particularly given the expanded opportunity for direct interaction in the ex post period. Thus, higher *NSL preference* scores should be associated with longer duration times.

⁸³ See Chapter Four, pages 95-96, for a discussion of the *NSL preferences* variable.

Congressional influence: hearings

Using the Policy Agendas database on congressional hearings (Baumgartner and Jones 2006), I determine the total number of hearings classified under “International Affairs and Foreign Aid” or “Defense” and measure the number of hearings in any given monthly period.⁸⁴ Since the conduct of the military operation itself may influence the number of hearings, I lag the variable – *hearings* – by one month to reduce potential endogenous effects. I predict that a higher number of hearings will be associated with a shorter duration of the use of force.⁸⁵

Congressional influence: Party Strength

Although the analysis regarding the initial use of force decision failed to uncover evidence of party influence, other studies conclude that party measures are significant predictors of uses of force during specific, usually quarterly, time periods (Wang 1996, Howell and Pevehouse 2005). Earlier, focusing on the decision to use force, I presented possible explanations for how presidents might consider crisis situations in light of differing party situations in Congress. When it comes to the duration of military operations already under way, however, it seems likely that presidents would, in fact, find comfort in same-party congressional majorities. While presidents typically have little to fear in terms of legitimate congressional constraint of ongoing military endeavors, a determined opposition party could conceivably make life difficult for the president, by highlighting opposition through statements, attempted resolutions (which do not require

⁸⁴ www.policyagendas.org.

⁸⁵ This is a very blunt measure of congressional oversight activity, and no doubt includes hearings involving issues other than military operations or international crises. However, as the aforementioned episode involving Deputy Defense Secretary Wolfowitz demonstrates (he was before the House Budget Committee when he responded to General Shinseki’s comments), hearings called for a specific reason can address numerous tangential topics, and afford committee members an opportunity to direct comments and questions on various issues to defense and foreign policy officials of the executive branch.

the president's signature and do not carry the force of law), or by introducing attempted funding restrictions.⁸⁶ Majority support in Congress, on the other hand, means the president most likely can count on sympathetic treatment from party leadership, able and willing to thwart potentially embarrassing legislation.

Thus, unlike with the decision to use force, I do expect to find evidence that presidential party support in Congress has some influence on the duration of military operations. For each of the three measures of party influence, the president is likely to continue military operations for longer durations when his party controls Congress. As with the analysis of the decision to initially use force, I use Howell and Pevehouse's (2005) three measures of party strength in my model. *Unified government* takes a value of 1 if the same party controls the presidency and both houses of Congress, 0 otherwise. *Percent president's party* indicates the percentage of seats controlled by the president's party in both houses. And *legislative potential for policy change* (LPPC) scores are based on the work of Brady, Cooper, and Hurley (1979) and indicate the relative strength and cohesion of the president's party.⁸⁷ Such an environment, presumably, reduces the opposition that a president will face from Congress during the course of a military operation, thus likely increasing its duration.

War Powers Resolution. Most observers, both supporters and doubters of congressional influence, agree that the War Powers Resolution does not play a meaningful role in the congressional-presidential relationship. Presidents refuse to

⁸⁶ Substantive legislative constraints would likely require supermajority support, since such action would almost certainly have to stand up to a presidential veto.

⁸⁷ The LPPC score for either chamber in any given term is calculated as follows: Chamber LPPC = [(president's party size in percent) x (cohesion of president's party)] - [(opposition party size in percent) x (cohesion of opposition party)] (Howell and Pevehouse 2005). Party cohesion scores are discussed in Brady, Cooper, and Hurley (1979), updated by Garry Young and Joseph Cooper, and available at <http://home.gwu.edu/%7Eyoungg/research/index.html>.

acknowledge the constitutionality of the legislation, exploit its ambiguity, and work around its restrictions (Rosati 2004). However, Auerswald and Cowhey (1997) suggest that presidents have conformed somewhat to the limitations of the War Powers Resolution by deploying troops for shorter periods of time. To test the possible influence of the legislation, I include a dummy variable indicating observations after November 1973.

Additional domestic influence.

The remaining domestic variables reflect the diversionary hypotheses, whereby presidents use military force in order to distract the American public from struggles at home. The theory, as described in the last chapter, relates directly to presidential approval, and more indirectly to economic performance and elections. Once troops are deployed, however, the question shifts from whether an operation temporarily diverts the public's attention to whether the indicators of the domestic political and economic environment affect how long troops remain engaged.

Presidential approval. The earlier analysis found no evidence that overall presidential approval rates impacted the decision to respond to an international crisis with military force. Regarding all uses of force, however, the models indicated, as expected, that declining presidential approval is related to a greater likelihood of using force. Whether presidents decide to use force for diversionary purposes or not, they know that the public normally reacts with immediate, if short-term, support (Mueller 1973, Parker 1995). If operations drag on, however, the public stance may soon turn to disapproval of the president, perhaps accelerating the withdrawal of troops. All else being equal, then, declining approval ratings should be associated with shorter uses of force. Because the

relationship between approval and duration is potentially endogenous – it may be unclear whether presidential action reacts to approval or the other way around – I take the measurement (*approval*) from the most recent poll in the month preceding the observation.⁸⁸

Economic performance. The earlier analysis indicated that presidents initiate military force with at least a passing glance at economic conditions; particularly, higher inflation rates are associated with a greater likelihood of major uses of force. Presidents immediately face a somewhat complicated scenario, however, in that continued high inflation rates could affect approval rates, as the public comes to perceive the president as more interested in overseas affairs than economic problems at home. Add to the mix the fact that military operations, particularly major ones, likely involve increased government spending, and any initial decision to avoid the fallout from high inflation by going to war seems decidedly impolitic. I test for the impact of economic performance on the duration of military conflict by lagging monthly measures of the *unemployment* and *inflation* rates, predicting that presidents will be more likely to curtail operations as rates increase.

Elections. The relationship between military operations and national elections seems to highlight the importance of timing. The rally effect is powerful, but relatively short. Therefore, a well-timed use of force, profiling the president's role as commander in chief, could presumably pay off in electoral support. However, as President George H.W. Bush discovered in 1992, expecting a rally effect to last through a presidential

⁸⁸ The measure is the percent of respondents approving of the way the president "is handling his job as President." The data is adapted from the Gallup Poll, compiled by Gerhard Peters, and acquired through the American Presidency Project website (<http://www.presidency.ucsb.edu/data/popularity.php>)

campaign is unrealistic.⁸⁹ From a strategic point of view, then, elections should increase the likelihood of withdrawal. Either presidents seek a quick boost in approval through smaller operations – which would be more likely to end quickly – or else seek to wrap up major uses of force by election time.

International Factors

When the president first considers whether to use military force, the international environment helps frame the decision, both by providing an opportunity as well as some indication of the likely outcome. Once military operations are under way, however, the focus shifts to the success or failure in achieving certain tactical and strategic goals. Ideal measures of the international factors affecting the duration of a military operation would provide objective data on the relative success of the endeavor. However, as the debate surrounding the infamous “body count” index of progress during the Vietnam War indicates, determining a valid, reliable measure of success, particularly in a limited conflict, is troublesome (Herring 1986, 153).

U.S military strength. One indicator of likely success at the outset of an operation is the relative strength of the United States and the target nation. Presumably, military operations involving increasingly weaker actors should end more quickly. To test this, I include a measure of the ratio (*power ratio*) of the Composite Index of National Capability for the U.S. to that of the target state.⁹⁰ To account for the often extreme difference between the participants’ respective indices, I take the natural logarithm of this

⁸⁹ The experience of President George W. Bush in 2004 and 2006 seems to reflect the importance of timing as well. Though the dynamic and successful Iraqi invasion had already shifted to the more uncertain Iraqi occupation by the time of the 2004 election, President Bush won partial validation of his optimistic assessment of the initial direction of the operation. By 2006, however, rally effects were a distant memory as control of Congress shifted to the opposition, largely driven by concern over an increasingly difficult war experience.

⁹⁰ This data is taken from the Correlates of War Capabilities data set (Singer, Bremer, Stuckey 1972). See chapter Four for a brief discussion of other methods of measuring capability.

ratio. Presumably, the greater the advantage in favor of the U.S., the more likely the operation should end more quickly (and successfully, though Lebanon in 1983 and Somalia in 1993 stand as obvious high-profile exceptions).⁹¹

Prioritization and U.S. resources. Meernik and Brown (forthcoming) argue that the availability of U.S. troops already stationed in the target state enables a president to keep troops in the field longer, since basing and logistics support reduces the cost of military operations. Additionally, however, the permanent deployment of forces in a nation represents the relative importance of that state or region and, in some cases, a treaty or formal statement of U.S. commitment. Therefore, when engaged in a military conflict or operation where troops are already stationed (*troops*), the U.S. should be both able and willing to use force as long as necessary. Similarly, U.S. aid to a state “accord[s] a nation some significance...[and creates]...at some level a commitment to that nation’s security” (Meernik 1994, 129). While military aid may also enable a state to more effectively provide, or at least assist with, defense in a crisis, overall this variable should be associated with longer uses of force.

Methodology: Duration Model

This study employs a duration model testing the effect of various political, economic, and international factors on the length of time a president chooses to keep troops engaged in a particular military operation. The duration model enables us to determine the *hazard rate* of the operation: “the rate at which units fail (or durations end)

⁹¹ An interesting argument against this hypothesis is that duration may indirectly represent a selection problem for the U.S., ironically based on its measured power. During the period of study – 1948 to 1995 – the United States maintained a level of strength approached only by the Soviet Union prior to the end of the Cold War. However, a foreign policy committed to countering Soviet expansion meant that the U.S. was limited in its ability to choose only “neat” situations in which to engage. Therefore, greater national power may be associated at times with conflicts of greater duration, reflecting not the relative strength of the U.S., but rather its inability to avoid messier conflicts.

by [time] t given that the unit had survived until [time] t' " (Box-Steffensmeier and Jones 2004, 14). The hazard rate is a "function of a set of k covariates X and a coefficient vector β (Box-Steffensmeier and Zorn 2001, 973) and is expressed as

$$h(t) = \lim_{\Delta t \rightarrow 0} \frac{\Pr(t \leq T \leq t + \Delta t \mid T \geq t)}{\Delta t} = f(X\beta) \quad (1)$$

When modeling duration data, it is important for the researcher to consider two important assumptions, the first concerning the baseline hazard function, or the shape of the hazard rate when holding all else constant, and the second regarding hazard proportionality.

The question of "duration dependence" has to do with the effect of time on the dependent variable. Holding all other effects constant, does the hazard of the event change as time increases? This question directs the choice of the specific duration model by which the researcher analyzes the relationship. Box-Steffensmeier and Jones (2004) argue that parametric models with specific duration dependence assumptions are effective when theory clearly points to a particular relationship between time and the dependent variable. For instance, military conflict is often thought to be negatively duration dependent, in that "the longer a conflict has dragged on the less likely it is to end at some future time" (Kriner 2006, 14). If the baseline hazard is indeed negative (or positive, for that matter, as long as it is monotonic), then certain models will "yield slightly more precise estimates of the time dependency in the data as well as more precise estimates of covariate parameters" (Box-Steffensmeier and Jones 2004, 21).

Though negative duration dependence is often considered "a basic characteristic of wars" (Bennett and Stam 1996, 243), others (Meernik and Brown 2005) argue that military uses of force, particularly by the United States, may be either negatively or

positively dependent.⁹² Certainly one can readily think of major American conflicts – Korea, Vietnam, the ongoing Iraqi War – where the search for an acceptable exit strategy seems to steadily decrease the likelihood the conflict will end. Other conflicts have ended abruptly, with the United States pulling out after suffering unexpected casualties, for instance, in Lebanon and Somalia. Because of this uncertainty regarding the shape of the baseline hazard function, I follow the advice of Box-Steffensmeier and Jones (2004), who suggest the use of more flexible models, such as the “semi-parametric” Cox Proportional Hazards model, which requires no prior assumptions about the form of the baseline hazard, and which may therefore reveal unexpected patterns in the results.⁹³

A second important issue to consider when testing duration models is whether the proportional hazards assumption is met. In the present case, the withdrawal of American troops from a military operation comprises the “failure” time for the particular case. The proportional hazards assumption states that the effect of time varying covariates on the duration of each case occurs in a constant manner over time. Box-Steffensmeier and Zorn (2001) argue that, not only does violation of this assumption lead to “biased coefficient estimates and decreased power of significance tests” (974), but also that “proportionality in covariate effects is quite likely to be the exception rather than that rule” (985). Therefore, I take the necessary steps suggested by the authors to account for potential non-proportionality in the Cox model.⁹⁴

⁹² Though Bennett and Stam (1996) introduce the argument for negative dependence, they argue that under-specification of independent variables is to blame for the assumption that conflicts are less likely to end the longer they drag on, and ultimately fail to find negative duration dependence.

⁹³ “The Cox model is sometimes referred to as a “semi-parametric” model: the (ordered) duration times are parameterized in terms of set of covariates, but the particular distributional form of the duration times is not parameterized (Box-Steffensmeier and Jones (2004, 49).

⁹⁴ For a brief description of these steps and the corresponding results, please see Appendix A

Results

Table 5.1 displays the results of the Cox models estimated for both the full set of U.S. military operations as well as only those events meeting Blechman and Kaplan's (1978) "major force" criteria. Two sets of results are displayed for each level of the use of force, signifying the different versions of the appropriations variables. Likelihood ratio test results indicate that the variables contribute to the model and improve them over "constant-only" models. Interpreting duration models in general, and the Cox model in particular, is somewhat more complicated than other forms of estimation. The coefficients in Table 5.1 relate to the hazard rate, the rate at which, in this case, a military operation comes to an end, given that it has not ended thus far. Positive coefficients imply that, as the covariate increases, the hazard rate also increases. Since a rising hazard rate means a decreasing survival function, positive coefficients in these models are associated with shorter duration times for military operations, while negative values are associated with longer durations.

Regarding first the models in which the dependent variable is the duration of all uses of military force, presidential approval and the use of major force levels both achieve statistical significance. I discuss *approval* in greater detail below, but note that the coefficient for *major military response* is, as predicted, negative.⁹⁵ When presidents respond to an international crisis with a major level of military force, the military operation is likely to endure longer than when less firepower is employed. First of all, as the massive Operation Desert Shield buildup throughout the fall of 1990 demonstrates,

⁹⁵ Adapting Box-Steffensmeier and Jones (2004, 60): "the coefficient estimate is [negatively] signed, indicating that when the value is realized, i.e., a 1 is observed, the impact of the covariate on the hazard rate is to [decrease] the hazard, thus [increasing] the survival time" of the operation.

Table 5.1: Duration of U.S. Military Operations: 1948-1995
[dependent variable: duration of military operation in months]

Variable	All uses of force		Major uses of force	
	Coefficient (standard error)	Coefficient (standard error)	Coefficient (standard error)	Coefficient (standard error)
Party	-.487	-.607	-1.14	-1.23
(Percent President) ⁹⁶	(.821)	(.799)	(1.36)	(1.33)
Appropriations	9.39e-07	—	6.78e-07	—
(total annual defense) ⁹⁷	(1.29e-06)	—	(2.24e-06)	—
Appropriations	—	-1.59e-06	—	-2.6e-06
(initial request – total) ⁹⁸	—	(1.87e-06)	—	(2.95e-06)
NSL preference	1.19	.829	2.52	2.15
	(.893) *	(.824)	(1.40) **	(1.23) **
Hearings – lagged one	.002	.002	.001	.001
month	(.002)	(.002)	(.004)	(.004)
War Powers Resolution	-.038	.044	.130	.159
effect	(.321)	(.028)	(.508)	(.430)
Election	.004	.003	-.003	-.004
	(.005)	(.005)	(.008)	(.008)
Unemployment	.015	.021	-.009	-.080
	(.064)	(.065)	(.099)	(.101)
Inflation	.006	.003	.052	.054
	(.033)	(.031)	(.050)	(.047)
Approval	.012	.013	.023	.024
	(.007) **	(.006) **	(.011) **	(.010) **
Power ratio (US to target	.029	.029	.071	.074
state)	(.039)	(.038)	(.061)	(.061)
Troops stationed in	.012	.013	.038	.039
country	(.023)	(.023)	(.035)	(.035)
U.S. military aid	.00002	.00003	.0002	.0002
	(.0001)	(.0001)	(.0002)	(.0002)
Major military response	-.417	-.426		
	(.148) **	(.149) **		
Vietnam/Korea	-.203	-.097	-.822	-.705
	(.238)	(.206)	(.455) **	(.379)
N	1012	1012	1012	1012
Log likelihood	-1079.55	-1079.45	-399.12	-398.78
LR ($\chi^2_{df=14}$)	20.87 (p ≤ 10)	21.07 (p ≤ 10)	25.05 (p ≤ .05)	25.72 (p ≤ .05)

Note: ** indicates statistically significant at the p ≤ .05 level (one-tailed test); * indicates p ≤ .10 level (one-tailed test)

⁹⁶ The models using a dichotomous indicator for unified government (both houses and presidency of same party) return almost identical results.

⁹⁷ Appropriations variable = current year appropriations total.

⁹⁸ Appropriations variable = difference between the president's budget request and the final defense appropriation.

moving large numbers of troops, fuel, and supplies requires significant time and effort. Additionally, the choice on the part of the president to expend such large amounts of resources indicates both the expectation that a particular operation may prove lengthy, as well as commitment to successfully conclude the undertaking (Meernik and Brown, forthcoming).

The fourth and fifth columns in Table 5.1 display the results from the models of major uses of force. Knowing that higher levels of force are associated with longer military operations, these models test the effect of various factors on those durations. Interestingly, as with the first two models, only one situational variable achieves statistical significance. The duration of major uses of force during the roughly 45-year period under investigation apparently was affected by whether the U.S. was engaged in a large-scale war. The negative coefficient for *Korea/Vietnam War* indicates that major military operations tended to last longer during the periods when U.S. troops fought in Korea and Vietnam.

While this finding is subject to various interpretations, one should be cautious in attributing too much to the statistical significance of this variable. Only 11 major uses of force occurred while the U.S. was engaged in Korea and Vietnam. Of these, the 29 month "security of Yugoslavia" operation (Blechman and Kaplan 1978, Fordham 1998) was part of much larger assignment of forces to Europe during the Korean War. Additionally, two separate responses to civil strife in the Dominican Republic, including one lasting 14 months, occurred during the early stages of the Vietnam War.

Regarding the other situational variables, the measure of the relative power between the U.S. and the target state (*power ratio*) does not demonstrate an effect on the

duration of military operations. On the surface this finding seems surprising. Presumably, overwhelming material and military capabilities should translate into relatively quick and successful operations. Perhaps the measure is the problem. As discussed in Chapter Four, capability is a somewhat nebulous concept, not particularly conducive to valid operationalization. At the same time, the experiences of Vietnam, Iran, Lebanon, Somalia, Afghanistan, and Iraq have reminded numerous presidents of the dangers of misreading "capability". Finally, as mentioned above, capability and responsibility bordering on the hegemonic may actually limit a state's ability to choose situations in which broad measures of capability influence operational success. A military designed largely around an anticipated massive armored confrontation in Germany against a similarly designed opposing force may find limited engagements in jungles or deserts frustratingly difficult to control.

Turning to the congressional variables, Table 5.1 indicates that the measure of political preferences among congressional national security leaders achieves statistical significance ($p \leq .05$) in three of the four models. However, the coefficient's sign is, somewhat mysteriously, positive, indicating that a more conservative set of congressional leaders is associated with, on average, shorter military operations. Before dismissing this unexpected finding as a failure to reject the null hypothesis, however, it seems worth examining a little more closely.

Recall that presidents notoriously refuse to consult with Congress prior to launching military operations. Given the time demands of crisis situations, as well as the tendency of crises to reduce the number of decision-makers, this is not surprising. And a measure of the political preferences of congressional leaders – *NSL preference* – had no

discernible effect in the model (Chapter Four) of the president's decision to use force. The finding here may suggest two things. First, again we may have evidence that Congress seems to have some influence in the war powers arena. Critics point to the lack of consultation; but here evidence emerges suggesting some effect from the indirect "consultative" variable. It does not have the expected effect, but it may have some effect. Whether via actual, personal communication or not, there may be a connection between the political preferences of key national security leaders and the president's decision regarding the duration of military operations.

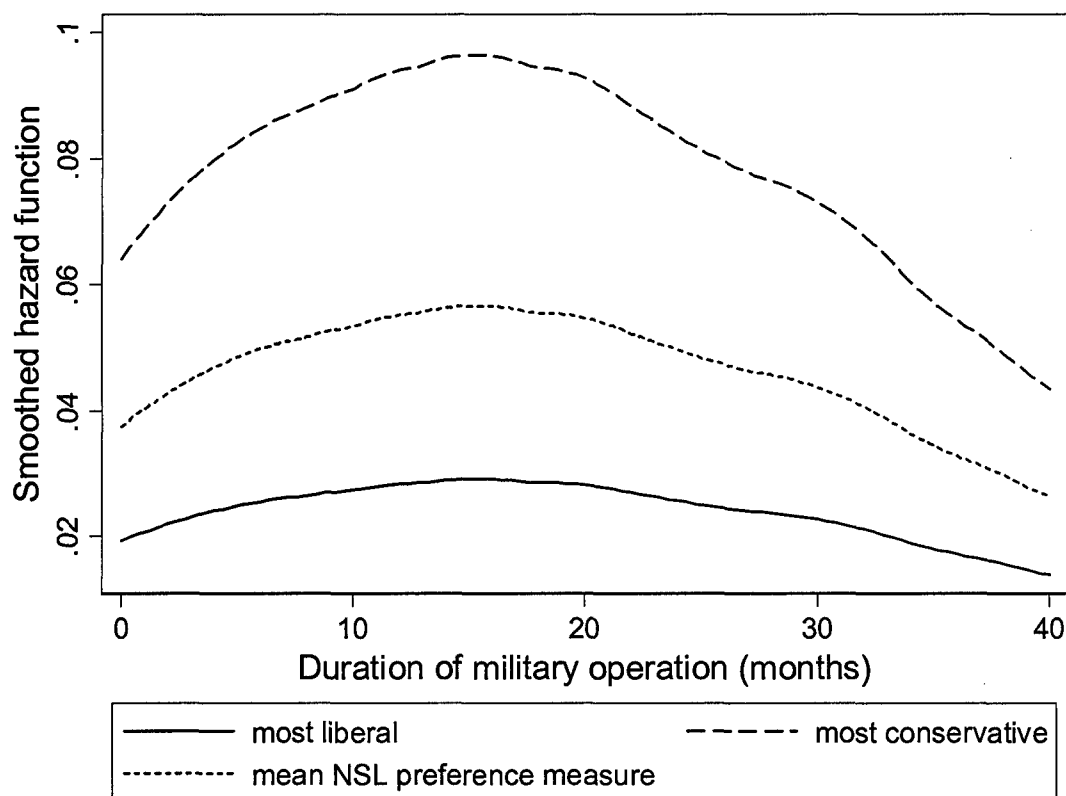
Perhaps the unexpected direction of the coefficient sign provides a clue. The hypothesis in the last chapter regarding the initiation of force was that more conservative national security leaders in Congress should be associated with a greater likelihood of using force, given the opportunity. Here the evidence suggests that more conservative leaders are associated with shorter military operations. First of all, if more conservative members of Congress are also more hawkish, the perhaps the higher score among national security leaders may translate into pressure on a president to go into a military conflict with enough force to win quickly.⁹⁹

On the other hand, consider the economic nature of the ideology measure. The first dimension of DW-NOMINATE scores (Poole and Rosenthal 1997) captures the member's ideology along a liberal-conservative, economic-based continuum. As discussed in the last chapter, this does not translate directly to a national security dimension. Interestingly, however, it may be in an economic capacity that senior national security congressional leaders influence the duration of military operations. Figure 5.1

⁹⁹ Along the lines of former Secretary of State and Chairman, Joint Chiefs of Staff, Colin Powell is associated with the "doctrine of overwhelming force," (Rosati 2004, 187).

depicts the baseline hazard of the Cox duration model, with the hazard of a major military operation ending plotted by the *NSL preference* variable. Given the baseline hazard shape, the plots reflect the effect of the preference variable at its mean value, as well as the highest (most conservative) and lowest (most liberal) values.

Figure 5.1 The Hazard of a Major Military Operation Ending, by NSL Preference



The most conservative measure for the congressional national security leaders in Figure 5.1 is associated with a much higher hazard rate, or a shorter use of military force. A more conservative member of Congress, especially when that conservatism is measured economically, fears high inflation more than high unemployment. Since military operations, particularly ones that are large-scale and prolonged, almost certainly require increased government spending, members may be especially likely to see longer

uses of force as potentially inflationary. Therefore, when the president hears from national security leaders during a crisis, it may be a message carrying decidedly economically concerned undertones. Again, the assumption is that Congress has indirect influence on the president, if at all. Ironical, then, if part of that influence, from members in national security leadership positions, focuses on the possible economic consequences of longer operations.

Presidential popularity, as measured in the last poll of the previous month, has a statistically significant impact on the duration of military operations no matter how the overall model is specified. Interestingly, however, the positive coefficient indicates that higher presidential approval rates are associated, somewhat surprisingly, with shorter military endeavors. Recall that, following Meernik and Brown (forthcoming), the effect was predicted to be just the opposite, with falling rates leading a president to curtail uses of force. Again, this could lead us to conclude that we do not have enough evidence to reject the null hypothesis, that presidential approval has no effect on the duration of military operations. However, current events may provide a clue as to one aspect of this unexpected relationship. Since the evidence indicates that presidents with high approval rates are associated with shorter military operations, conversely, presidents with lower ratings are less likely to end an operation.

Taking the latter evidence first, I discussed earlier the possibility of endogeneity between public approval and the duration of the use of force, and how the lagged measure of presidential approval is designed to remedy that problem. However, as military operations bog down, it is natural to expect that the situation on the ground will affect the president's approval ratings in some way. The hypothesis here predicts that declining

numbers should spur the president to "stop the bleeding" and end the operation.

However, as the experiences in Vietnam and, currently, Iraq, demonstrate, some presidents seem to demonstrate a greater incentive to succeed in a military endeavor than they do to stem declining approval numbers. "Peace with honor" or "staying the course" can effectively become administration policy and declining poll numbers may be seen as evidence that the operation must be seen through to a successful conclusion.

If this is the case, then perhaps higher numbers leading to shorter conflict duration is also not surprising. On the one hand, again with an eye towards possible endogeneity, as a conflict winds down, or is obviously successful, a president's approval rating should at least remain steady, rather than dropping. Thus, high approval ratings may signify that an operation is coming to a close; if such an effect exists over the course of a few months, then a one-month lag in the variable may not account for the reciprocal nature of the relationship. At the same time, if the general public is able to acquire information that allows them to reasonably consider and evaluate the political world (Sniderman, Brady, and Tetlock 1991, Page and Shapiro 1992, Lupia 1994, Lau and Redlawsk 1997), then perhaps public opinion numbers can approximate the relative success of a military operation, as reported by the media. If the public is able to transfer reports on military success into rational beliefs about the operation, these may, in turn, affect the collective opinion of the president's performance. Operations that are succeeding are, for the most part, closer to concluding, with corresponding higher presidential ratings, than those in which goals are not being met.

Conclusion

This chapter highlights an important component of the theoretical argument made earlier concerning the president's impressive agenda control regarding military operations. Essentially, that argument states that the ability to act unilaterally by deploying troops allows the president to shift the status quo and alter the terms of debate. When Congress faces a decision involving any hint of the choice between supporting the troops or not, it really faces no choice at all, and the president has essentially carried the day.

Understanding this point completely, Theodore Roosevelt celebrated the revamped Great White Navy by ordering a cruise around the world, knowing that Congress, no matter how initially opposed to funding the action, would not fail to pay to bring the ships home. Lyndon Johnson returned annually to Congress to request continued funding for an increasingly unpopular war in Southeast Asia, knowing that congressional opposition to presidential policy would never manifest itself as opposition to the troops carrying out the policy. George H. W. Bush deployed tens of thousands of troops immediately and hundreds of thousands eventually to confront Iraq in 1990, betting his initial discretionary monetary transfers that Congress would not fail to supplement the operation with the required billions of dollars. Bill Clinton informed Congress that he had begun air operations against Serbian military targets in Kosovo, and in the midst of the ensuing debate over war powers, received from Congress an emergency supplemental appropriations funding the ongoing operation (Grimmett 2001).

At the same time, however, this analysis and the test of various effects on the decision to employ force in the first place both point to evidence suggesting that

Congress is not shut entirely out of the picture. Recognizing this, the institution may be best served by putting thoughts of formal war declarations and direct appropriations restrictions behind, and acknowledging a more indirect, long-term role. This chapter in particular points to the importance of public opinion in affecting conflict duration. The next chapter considers the first stages of exploring how various factors may influence specific actions Congress does or does not take to assert itself in the use of force question.

CHAPTER SIX

PURSUANT TO CALL: CONGRESSIONAL HEARINGS AND THE USE OF FORCE

The analysis thus far indicates that congressional influence in the area of military force is a largely untapped resource. Presidents seem likely to initiate and terminate military operations based on factors other than specific direct congressional action. There do seem to be indirect, long-term variables ultimately controlled or influenced by Congress, but little to suggest constraint of the president as a likely outcome. As argued earlier, the inability of Congress to constrain the president may, in fact, be more aptly stated as the institution's unwillingness to do so. Of course, if attempts at constrain have proven ineffective, then Congress' unwillingness to act may reflect its awareness of the futility of expending valuable and limited political resources. It could also stem from strategic considerations on the part of Congress, and an acknowledgment that somehow the institution's background role serves an important and valuable function.

This chapter takes an initial stab at both of these possibilities, by examining one specific method by which Congress participates in the use of force issue. Legislative efforts to constrain the president's war powers tend to fall victim to collective action problems or, in the case of the War Powers Resolution, presidential indifference. Similarly, the appropriations process holds potential indirect ability to influence, but is largely unavailable as a direct constraining mechanism. The oversight process, however, does allow Congress to confront the president through committee hearings, thus

highlighting issues and signaling congressional preferences regarding a particular military operation (Sinclair 1994). In addition, the use of congressional action as the dependent variable allows us to examine factors that determine when and if Congress enters the war powers battle in a more institutionally substantive way. Prior to discussing a specific model of congressional oversight and military operations, however, I first consider the relative appeal of hearings as an influence mechanism.

The Relative Appeal of Congressional Hearings

“Investigation/oversight is a congressional information-gathering function” (Meier 2000, 133). As such, the oversight process gives congressional members the authority to compel senior officials of the Department of Defense to provide information concerning potential or ongoing military operations. Ideally, this reflects the best of our constitutional system, as representatives and senators quiz executive and military leaders on strategy and policy, ensuring that the final operational decisions reflect the indirect input of the citizenry through their elected leaders. As Sinclair (1994) suggests, however, hearings often deal with peripheral issues or serve simply as supportive audiences for administrative briefings.

Instead of effectively allowing Congress to constrain the president, then, the oversight process can reflect how the high cost of monitoring the executive branch reinforces the president’s unilateral abilities in the foreign policy arena (Lindsay 1994). Lindsay speaks of cost primarily in practical terms, for instance the difficulty in penetrating the extensive secrecy that often marks foreign affairs and military action. But opportunity costs also hinder Congress. Again, Lindsay (1994) suggests why: “Members...find themselves caught in a dilemma; influencing agency behavior is

difficult and often *electorally unrewarding*, yet voters hold them accountable” (283, emphasis mine). This suggests the intuitive appeal of the “fire alarm” approach to oversight (McCubbins and Schwartz 1984). By letting constituents and organized interests highlight specific areas requiring attention, the members perform an institutional necessity while tending to constituent needs.

How does this apply to the relationship between Congress and the president in war powers politics? At the informational level, the hearing process involves an interesting struggle of “give and take” between Congress and the presidency. First of all, Congress requires as much specific information as it can get if it hopes to exert any influence over the use of force. Ricks (2006) describes the “passive resignation” with which the Senate Foreign Relations Committee admitted that neither they, nor the public, were likely to get the kind of information that would permit an informed viewpoint on the 2003 invasion of Iraq. At the same time, the president and defense officials often claim the need to keep certain information confidential, so as not to compromise potential or ongoing military operations. To the outside observer, this interaction is characterized by classified information, potential leaks, and the need for *operational* secrecy.

At another level, however, the decision on the part of the president to hold information close to the vest represents sound domestic political strategy. The environment resembles Putnam’s (1988) two-level game, but with Tsebelis’ (1991) expanded scope, in that two games are occurring at once, both dependent on a particular type of information. The obvious game involves the president facing both an international adversary as well as domestic constituents. In this case, Congress helps influence the size of the win-set available to the president at the international level.

Though Putnam's arguments concerning trade agreements indicate the potential value of a smaller win-set, in that a president can drive a harder bargain via a "that's the best I can do" argument, with regard to the use of military force a president seeks the domestic support that will expand his international win-set.

To secure this, a president has great incentive to provide "just enough" information to convince Congress to support the endeavor, but not so much that the possible difficulty of the operation drains domestic support. Thus, President Johnson's campaign of misinformation in the earliest days of the Vietnam conflict provided:

A dual advantage in not defining the number of men and the mission: first it permitted the principals themselves to keep the illusion that they were not going to war, and it permitted them not to come to terms with budget needs and political needs...Second, if the figure was not decided upon and crystallized within the inner circle, it could not leak out to the press and to the Congress, where all kinds of enemies lurked... (Halberstam 1972, 722).¹⁰⁰

Thus, one should expect any administration representative under oath before a congressional committee to offer information that, if not deliberately misleading, conceals the full extent of the particular operation. The aforementioned conflict between the Army Chief of Staff and Deputy Defense Secretary concerning the number of troops required for the 2003 invasion of Iraq barely conceals the overall Bush administration strategy of presenting potential military and political obstacles in as promising a light as possible (Ricks 2006, Fallows 2004). Consider the following exchange between top-ranking congressional and executive officials. The episode occurred during the 1995

¹⁰⁰ Interestingly, Halberstam (1972) suggests that Johnson sought congressional support not only for the game at the international level, but the simultaneous game within the country as well: "if an issue as fragile and volatile as Vietnam became a major part of the upcoming political campaign, then Johnson wanted some kind of congressional support, for protection...he wanted Congress on board, partly as a way of keeping the country on board" (490).

debate over possible military action in Bosnia, and demonstrates a typical executive approach to specific congressional information requests:

Senator Warner. Just say it in your own words. Do you feel President Clinton should come before the Congress and seek a joint resolution similar to the Gulf war or not, just simply yes or no?

Secretary of State Christopher. Senator, the President himself has said that he would welcome and encourage such an authorization, and I would welcome and encourage such an authorization from the Congress at the same time. (Senate Armed Services Committee Print October 17, 1995, 212).

So the hearing room often witnesses a game in which committee members press for specific information, while administration officials present vague, usually rosy, predictions. At the same time, however, Congress in committee has an interesting tendency to avoid explicit investigation into combat operations. This phenomenon seems to be driven by two considerations, one a matter of relative expertise and informational asymmetry, the other a strategic consideration. Cohen (2001) writes of the “unequal dialogue” existing between senior military leaders and their civilian superiors, and how the “normal theory” of civil-military relations conditions non-military officials to avoid unnecessarily intruding in the arena of trained military “professionals.” The legacy of Vietnam, the declining percentage of military veterans in Congress (Bianco and Markham 2001), and interpersonal civil-military dynamics – the general who tends “to impress high-level civilians and simultaneously make them quite uneasy” (Halberstam 2001) – all help explain why committee members might assume less aggressive stances when facing defense officials during a military operation.

In addition, there may be little reason for Congress to fully exploit the opportunity to grill military and executive branch officials appearing before committees. As discussed earlier, the first months of an operation are marked by the rally effect and a

boost in approval for the president from both the general public (Mueller 1973, Parker 1996) and Congress (Stoll 1987). In such an environment, the default position for most members of Congress is to publicly support the troops, while suppressing misgivings until a more politically opportune time. Actively opposing the president in the committee hearing room may backfire if the operation proves quick and successful. If the military endeavor does bog down, opponents will likely see their options improve by waiting until the public becomes aware of the potential for a more difficult operation. In the mean time, the fine line between criticizing an administration's policies and supporting the troops in the field should affect the approach committee members take with Defense Department witnesses at the hearing table.

Data and Methodology

I am interested in determining when Congress is willing to take certain steps to confront the president in the war powers arena. According to the arguments presented above, it should not be often. Though members may be held accountable for their role surrounding a use of force, a member's individual vote, or series of votes, provides the public a much more visible benchmark than committee activity (Arnold 1990). Since oversight may not be as electorally rewarding (Lindsay 1994), and since previous evidence does not support its practical role, Congress should wait to expend limited time and resources on hearings until "it perceive[s] it is safe to criticize or attempt to constrain the president's control over the military" (Meernik 1995, 380).

Dependent variable

The Policy Agendas Project includes an impressive dataset of information for all congressional hearings held between 1947 and 2004.¹⁰¹ Subdivided by topic, the data classifies certain hearings as “direct war related.” These hearings cover a wide variety of specific subjects, from war criminals, prisoners of war, and atrocities stemming from previous conflicts, to the conduct of current operations. Because I am interested in congressional reactions to specific conflicts, I include only hearings that are obviously tied to those conflicts.

This “first cut” strategy necessarily eliminates testimony which, no doubt, could specifically address ongoing conflicts, and conceivably speak directly to the conduct of the president as commander in chief. Additionally, the data categorized as “direct war related” almost certainly omits relevant testimony, comments, and questions concerning ongoing conflicts asked as asides in hearings covering other subjects. An ideal dataset of all congressional testimony regarding ongoing military operations awaits compilation and is beyond the scope of this project. Nonetheless, I include as my dependent variable the number of days of hearings per congressional session associated with a particular use of force. The unit of analysis is the current congressional session in which the operation occurs, and I examine 15 major uses of military force from 1948 to 1995. Table 6.1 displays these military operations, as well as data concerning the associated congressional hearings.

¹⁰¹ The congressional hearings data is tabulated from the *Congressional Information Service / Annual: Abstracts of Congressional Publicans and Legislative History Citations*. The data was originally collected by Frank Baumgartner and Bryan Jones (NSF SBR9320922) and are available through the Center for American Politics and Public Policy at the University of Washington: (<http://www.policyagendas.org/codebooks/hearings.html>)

Table 6.1 Uses of Military Force and Congressional Hearings

Use of Force	Duration	Hearings
Berlin Airlift	4/4 – 8/49	2 hearings – 2 committees – 1 day each
Korean War		
Truman	6/50 – 1/53	14 hearings – 6 committees – 55 days total
Eisenhower	1/53 – 7/53	3 hearings – 2 committees – 5 days
Lebanese crisis	7/58 – 11/58	No direct hearings
Laos Civil War	4/62 – 8/62	No direct hearings
Vietnam War		
Johnson	8/64 – 1/69	25 hearings – 7 committees – 103 days total
Nixon	1/69 – 8/73	30 hearings – 7 committees – 88 days total
Dominican Republic Civil War	4/65 – 10/66	No direct hearings
Civil War in Lebanon	8/82 – 3/83	9 hearings – 5 committees – 13 days total
Grenada Invasion	10/83 – 11/83	No direct hearings
Persian Gulf – reflagging oil tankers	5/87 – 9/88	4 hearings – 3 committees – 14 days total
Panama Invasion	10/89 – 1/90	2 hearings – 2 committees – 6 days total
Desert Shield/Storm	8/90 – 2/91	8 hearings – 5 committees – 34 days total
Somalia Intervention	12/92 – 1/94	3 hearings – 2 committees – 4 days total
Bosnia – No-Fly Zone	4/93 – 12/95	3 hearings – 2 committees – 3 days
Rwanda	7/94 – 10/94	No direct hearings
U.S. forces land in Haiti	8/94 – 3/95	No direct hearings

Explanatory Variables

Party. Though earlier analysis here indicates little direct influence from the president's party strength in Congress, other research suggests the importance of partisan balance in use of force issues (Kriner 2006, Howell and Pevehouse 2005, forthcoming, Wang 1996, Meernik 1995). In this case, when the president's party is in the minority, one would expect that congressional opposition to the use of force would manifest itself

in the form of congressional hearings, called by the majority party. Through these hearings, the opposition party could potentially embarrass the president by highlighting shortcomings in the current operation. Of course, the opposition party must walk the treacherous (though not treasonous) fine line between attacking the president and supporting the troops. Nonetheless, when the president's party is in the minority, one should expect more hearings during a particular use of force. I measure party influence via a dummy variable in which a "1" signifies that the same party controls the presidency and both houses of Congress (*unified government*), and a "0" indicates that either or both congressional houses are not controlled by the president's party.¹⁰²

Length of operation. Meernik (1995) finds that Congress is more likely to respond to the presidential use of force the longer a conflict drags on. Whether because longer conflicts imply unsuccessful operations, or because they simply provide more opportunities for Congress to act, presidents can best avoid confrontation with Congress by quickly "getting in and out." Burgin (1992) notes the lack of congressional response to the Panama invasion of 1989-1990 and cites four related explanations: popularity and limited duration of the operation, good timing (Congress was not in session), and the popularity of the president. In short, by the time Congress was in a position to act as a body – specifically addressing President Bush's disregard of the War Powers Act – there was no need: the operation was almost over, was popular within Congress, and the president was enjoying the benefits of the rally effect. The length of operation – *duration*

¹⁰² Earlier measures of partisan balance included the percent of seats controlled by the president's party, as well as a measure of intraparty cohesion (LPPC scores). Here, however, because majority status alone is enough to determine the chairmanship, and thus the agenda, of a committee, I use only the measure of unified government.

– is a count of the number of days in the operation, and is predicted to positively affect the number of hearing days.

Public opinion. As indicated by the arguments above, I predict that Congress will be most likely to confront the president through the hearings process when it perceives that the public is growing restless regarding the current operation. Therefore, I investigate a variety of public opinion measures to determine what, if any, messages Congress receives. Recall that the expectation regarding presidential approval rates and the duration of military operations was confounded by the findings in the last chapter. Though situational factors, such as successful conclusions to an operation, may explain why high approval ratings are associated with shorter durations, here the more traditional relationship is expected. Since the president's approval rates are assumed to capture part of the public's perception of his success in the commander-in-chief role, lower rates signal Congress that the president may be vulnerable. Additionally, they may indirectly signal the public's desire that someone – i.e. Congress – confront the president over the progress of the operation. Therefore, public opinion of the president or the operation is predicted to have a negative effect on congressional hearing activity. When ratings are good, Congress will be less likely to take on the president; but lower rates may embolden Congress and spur it to confront the president through its oversight authority.

The survey record regarding public support for military operations is rather spotty. Vietnam and Desert Storm, especially, received great attention from pollsters and the public was queried at least once on 12 of the 15 operations included in this study, all but the 1962 Laotian Civil War, the 1989 invasion of Panama, and the 1994 United Nations Assistance Mission in Rwanda (UNAMIR). More explicitly than approval of the

president, these measures potentially tap public support for specific military operations. However, except for Vietnam and Desert Storm, most military operations receive polling attention that is dispersed across the duration of military activity. An example is the nearly 18-month tanker reflagging operation in the Persian Gulf during 1987 and 1988. Citizens were polled in three of the first four months of this endeavor, but only once more during the entire operation.

An additional problem with using polling data to indicate public support for military operations is the variety of questions employed by polling organizations. During the military intervention in Lebanon during 1982 and 1983, citizens were asked during five consecutive months whether sending troops had been a mistake or not. Such consistency in polling is rare. During Vietnam, for instance, available polling data ranges from whether involvement had been a mistake, to timelines for withdrawal, to support for Presidents Johnson or Nixon's specific handling of Vietnam.

Because of this disparity in treating public opinion, I take two approaches to operationalizing public support for military operations, based on different iterations of the annual Gallup Poll presidential approval data. My initial measure of public opinion is simply the difference – *approval difference* – between the president's approval rating at the beginning and end of a military operation. Note that a rising approval rate returns a negative value for the difference, and falling rates will take a positive value. I hypothesize that larger value of this variable – signifying a declining approval rate – will result in more congressional hearings, as committees move to take advantage of a politically weakening executive. The second measure – *approval average* – takes the mean approval rate during the current congressional session in which the crisis occurs.

This value should negatively affect the number of hearing days, as an increase in average approval makes Congress think twice before confronting the president.¹⁰³

Following Meernik's (1994) lead, I also include the percentage of survey respondents citing "Foreign Affairs" or "International Relations" as the nation's "most important problem." As argued above, members of Congress will most likely devote resources to confronting the president when their reading of the general public leads them to believe they have political latitude to do so. One indicator of this is the extent to which the public currently considers foreign policy an important issue. This variable – *most important question* – should positively affect the dependent variable.

Casualties. Though often considered an "iron law" of civil-military relations, the assumption that the American public will not tolerate casualties in military operations may be exaggerated (Feaver and Gelpi 2005). However, congressional reactions to highly publicized loss of American life in Lebanon in 1983 and Somalia in 1993 as well as previous research on the rally effect (Mueller 1973, Parker 1990) indicates that potential casualties significantly influence the enthusiasm with which the public will consider the use of military force. Therefore, as Meernik (1994) points out, highlighting the loss of life offers Members a "safer" means of criticizing the president. If casualties mount over the course of an operation, Congress should be more likely to confront the president through various methods, including floor speeches, public comments, and

¹⁰³ I test a third measure based on the various available survey responses to questions specifically pertaining to particular uses of force. I categorize responses according to whether they generally support or oppose the current operation. This, unfortunately, does not mean the same thing for each version of the various questions. For instance, respondents who support President Nixon's handling of the war, reject immediate withdrawal, and do not feel it was a mistake to get involved in Vietnam, are all grouped on the "general support" side of the issue. Though these options may not tap the same level or type of support, I consider the average score in favor of continuing the operation to be a reasonable proxy for specific public approval.

committee hearings. I include a measure of the total number of *casualties* during a particular congressional session in which a military operation occurs.¹⁰⁴

Results

Table 6.2 displays the results of a multiple regression model testing the effects of various explanatory variables on the number of days Congress devotes to hearings concerning a particular military operation.¹⁰⁵ The model is specified as follows:

$$\text{Hearing days} = \beta_0 + \beta_1(\text{unified government}) + \beta_2(\text{approval})^{106} + \beta_3(\text{most important issue}) + \beta_4(\text{casualties}) + \beta_5(\text{duration}) + \epsilon$$

As depicted in Table 6.2, four of the explanatory variables achieve statistical significance in the predicted direction. First of all, however, presidential approval, as in previous analyses, behaves in an unexpected way. When measured as the average approval rate during a military operation, the variable is in the expected direction, but is not statistically significant. When measured as the change in approval from the beginning to the end of an operation, the variable is statistically significant ($p < .10$) but the coefficient is negative. The substantive interpretation of this variable, then, is that falling approval rates are associated with fewer congressional hearings. This is

¹⁰⁴ Data on military casualties are available through the Department of Defense Personnel and Procurement Statistics website (<http://siadapp.dior.whs.mil/personnel/CASUALTY/castop.htm>), as well as the United States Air Force Air University website (<http://www.au.af.mil/au/awc/awcgate/awc-hist.htm>)

¹⁰⁵ As Long (1997, 217) points out, linear regression can be an inappropriate modeling technique when working with count variables, such as the number of hearings during a congressional session. Despite the potential for inefficient, inconsistent, and biased estimates, the small number of observations in this "first cut" at modeling congressional action means linear regression will still provide an idea of the relationships between these explanatory variables and the number of hearing days Congress devotes to a military operation.

¹⁰⁶ Two models are specified, using different measures for presidential approval: one measuring relative change from the beginning to the end of a military operation, the other measuring the average approval rate during the operation.

Table 6.2 Congressional responses during military operations
(*Dependent variable*: hearing days per congressional session in which military operation occurs)

Variables	(1) β	(2) β
<i>unified government</i>	-8.2 (2.78) ***	-6.5 (2.8) **
<i>approval average</i>	.15 (.115)	—
<i>approval change</i>	—	-.24 (.14) *
<i>most important issue (foreign affairs)</i>	.22 (.11) *	.23 (.11) **
<i>casualties</i>	.002 (.0002) ***	.002 (.0002) ***
<i>duration</i>	.02 (.006) **	.02 (.006) **
<i>constant</i>	-5.97 (6.73)	1.12 (2.34)
N	28	28
SEE	43.81	41.27
Adj. R ²	.85	.86
Standard errors in parentheses	*** p<.01 ** p<.05 *p<.10	

counterintuitive, since approval rates signal Congress as to one indicator of the president's current political strength. As the public grows less enthusiastic towards the president's performance, Congress should perceive an opportunity to confront current military operations through the hearing process. This finding deserves further consideration below.

Turning to the other variables, *unified government* has an expected effect on the congressional response to the president during a military operation. Between the two models, the switch from divided to unified government means a decrease by about a week in oversight activity. Same-party committee chairs are likely to "run interference" for the president, holding off on hearings despite probable requests from minority

members. Once one or both houses of Congress fall into opposition hands, however, hearing activity increases.

The *most important issue* question, asked annually through the Korean War, and quarterly thereafter, indicates how important foreign affairs and international issues are to the general public at a given time. As indicated, the variable is statistically significant (just missing $p < .05$ for the first model) and suggests that rising concern with developments in the international area may signal Congress to take a closer look at the president's foreign policy and military conduct. An increase of five percent in the number of respondents citing international affairs as the most important issue translates into an additional day of congressional hearings.

Finally, the *duration* of an operation and American *casualties* both impact the attention Congress gives to military activity. Tests for multicollinearity, a likely culprit with these two variables, do not provide cause for alarm.¹⁰⁷ Though casualties and duration would likely exhibit a linear relationship when examining wars only, numerous lengthy American military operations incur few or no casualties. For those conflicts in which casualties do occur, however, Congress is more likely to look into the operation. However, the coefficient indicates that *casualties* must be particularly high to influence Congress to hold hearings. An increase of 500 American military casualties is associated with an additional day of hearings during a particular congressional session in which the operation occurs. Finally, the *duration* of an operation also influences Congress' willingness to confront the president through hearings. The statistically significant

¹⁰⁷ Using .75 as a threshold value, a correlation matrix of the independent variables returns a value of .59 between *casualties* and *duration*.

coefficient indicates that as operations pass each 100-day mark, Congress is likely to hold two additional hearings related to the operation.

Conclusion

This brief analysis suggests avenues for further research within the specific topic area. First of all, committee hearings are a rich source of both qualitative and quantitative data, but lend themselves most readily to the former. Therefore, more extensive coding of hearing transcripts and reports promises variables better able to systematically test determinants of congressional behavior. For instance, while "hearing days per month" provides some measure of congressional attention to an issue, it provides little information as to the specific tone of the questioning and testimony. Perhaps indicators of statements – confrontational, supportive, questioning, etc. – could better reveal the relationship between the independent variables mentioned in this analysis and the action Congress takes. At the same time, the specific witnesses called to testify during hearings into military operations may indicate whether the hearings are meant to confront the executive, highlight an issue and expand the scope of conflict (Schattschneider 1975), or allow members position taking opportunities (Mayhew 1974).

Next, the search for reliable indicators of public opinion can be frustrating when dealing with historical events. The argument can be made that presidential approval rates generally capture most of the specific dynamics surrounding a well-publicized use of force. However, more nuanced measures may provide insight into the types of public messages that move Congress to act. As mentioned above, an adapted measure of public support, based on responses to a variety of questions coded according to whether they generally supported continuation of the current operation, proved of little value in

understanding the effect of public attitudes on congressional behavior during conflict. However, other measures, such as New York Times front-page articles or editorials from major newspapers, through tapping elite, rather than public, opinion, may more accurately reflect the factors driving congressional behavior.

The dependent variable in this study represents a shift in analysis from congressional ability to influence and participate in war powers politics to those factors that determine if and when Congress acts. The findings seem to confirm the impression of a Congress "genuinely ambivalent about [its] role in foreign policy" (Mann 1990, 29). On the right side of the equation, the independent variables highlight the reactive characteristics of congressional behavior. Congress acts when international relations become more important to the public. Congress acts when casualties increase. Congress acts after a conflict has dragged on for months or years. On the left side of the equation, the dependent variable reflects the relative paucity of options available to an institution beset by collective action problems and responsible to the electorate. Congress cuts funding in the rarest of cases. Congress passes meaningful constraining legislation in the rarest of cases. But Congress can hold hearings to inform, investigate, and even confront the executive branch.

CHAPTER SEVEN

SUBPOENAS AND SIGNALS: CONCLUSIONS AND IMPLICATIONS IN LIGHT OF THE 2006 CONGRESSIONAL ELECTIONS

This study has explored congressional-presidential relations in the war powers arena from a variety of perspectives. Thematically, it has moved from the initial choice to employ military force, to the decisions involved in ending military operations, to factors driving specific congressional action during military conflict. Somewhat opportunely, current political developments lend themselves particularly well to not only a discussion, but an application, of these results to the political situation in late 2006, regarding Congress, the president, and current American military activity.

The results of this study suggest certain generalizable predictions concerning future behavior and likely relational dynamics within the political environment surrounding the use of military force. In summarizing these findings, however, the immediate contemporary political environment suggests a strategy whereby we work backwards, beginning with congressional activity and moving back to the decision to use force. Indeed, editorial reactions to the 2006 congressional elections provide a blueprint of sorts for this chapter. First, congressional action, specifically hearings: "oversight...is reverberating through Congress as a Democratic battle cry."¹⁰⁸ Next, decisions on the duration of the conflict: "Leading Senate Democrats vowed today to use their new majority in Congress to press for troop reductions in Iraq within a matter of months,

¹⁰⁸ James Glanz, David Johnston, and Thom Shanker, "Democrats Aim to Save Inquiry on War in Iraq," *New York Times*, 12 November 2006.

stepping up pressure on the administration..."¹⁰⁹ Finally, the decision to use force in the first place: "Democrats accuse Republicans of being complicit as Bush as led the nation into an unwinnable war..."¹¹⁰

Therefore, I first discuss possible congressional action within the context of the current military operations, given the remarkable results of the 2006 midterm elections. I next move to the possible substantive effect such actions may have on the duration of military operations. Finally, I finish the discussion where this project began: with the various factors influencing a president's consideration of the use of military force.

Setting the Stage: The 2006 Midterm Elections

When members of the 110th United Congress convene on January 3, 2007, complete control of both houses will rest with the Democratic Party for the first time in 12 years, and President George W. Bush will face an opposition-controlled House for the first time in his presidency.¹¹¹ Additionally the results of Election Day exit polls indicate that the war in Iraq effectively nationalized the election, relegating local issues to a rare backseat in relation to opinions on the war and President Bush's performance.¹¹² According to surveys conducted the weekend prior to the elections, approval for the president's performance ranged from 35 to 41%, with approval for the ongoing war in

¹⁰⁹ Sheryl Gay Stolberg and Mark Mazzetti, "Democrats to Press Bush to Reduce Troops In Iraq," *New York Times*, 12 November 2006.

¹¹⁰ Richard B. Schmitt and Richard Simon, "Democrats are set to Subpoena," *Los Angeles Times*, 10 November 2006.

¹¹¹ Republicans controlled the Senate from January 3, 2001 to June 6, 2001, at which time Jim Jeffords of Vermont switched parties and returned Senate control to the Democratic party, an advantage they held through January 2003.

¹¹² For instance, see CNN website, November 8, 2006, "Exit Polls: Bush, Iraq Key to Outcome," (<<http://www.cnn.com/2006/POLITICS/11/08/election.why/index.html>>); Robin Toner, "A Loud Message for Bush" *New York Times*, 8 November 2006; Peter Baker and Jim VandeHei, 8 November 2006, "A Voter Rebuke for Bush, the War and the Right" *Washington Post*.

Iraq falling generally in the same range.¹¹³ On the ground in Iraq, October 2006 witnessed the greatest loss of American life in Iraq in two years, and military leaders publicly suggested that more troops might be required to stem the increased bloodshed.¹¹⁴ Finally, accompanying the election night celebration among victorious Democrats was a virtual chorus of popular promises to challenge President Bush's Iraq policy.¹¹⁵ With such a wave of political developments, an observer might easily assume that significant policy change, particularly regarding the war in Iraq, is simply a matter of awaiting the new majority's arrival in January 2007. The findings presented in this study, however, suggest that informed pessimism may be a more realistic approach to assessing potential congressional influence.

The "Last" Analysis: Congressional Action and Military Operations

Figure 7.1 displays various indicators of the political environment leading up to the 2006 midterm elections. On the left side of the graph, two measures of public opinion – presidential approval and support for the Iraq war – are plotted over the course of the 109th Congressional term. The right side plots the monthly casualties in Iraq during the same timeframe. These factors reflect the primary variables tested in Chapter Seven, and

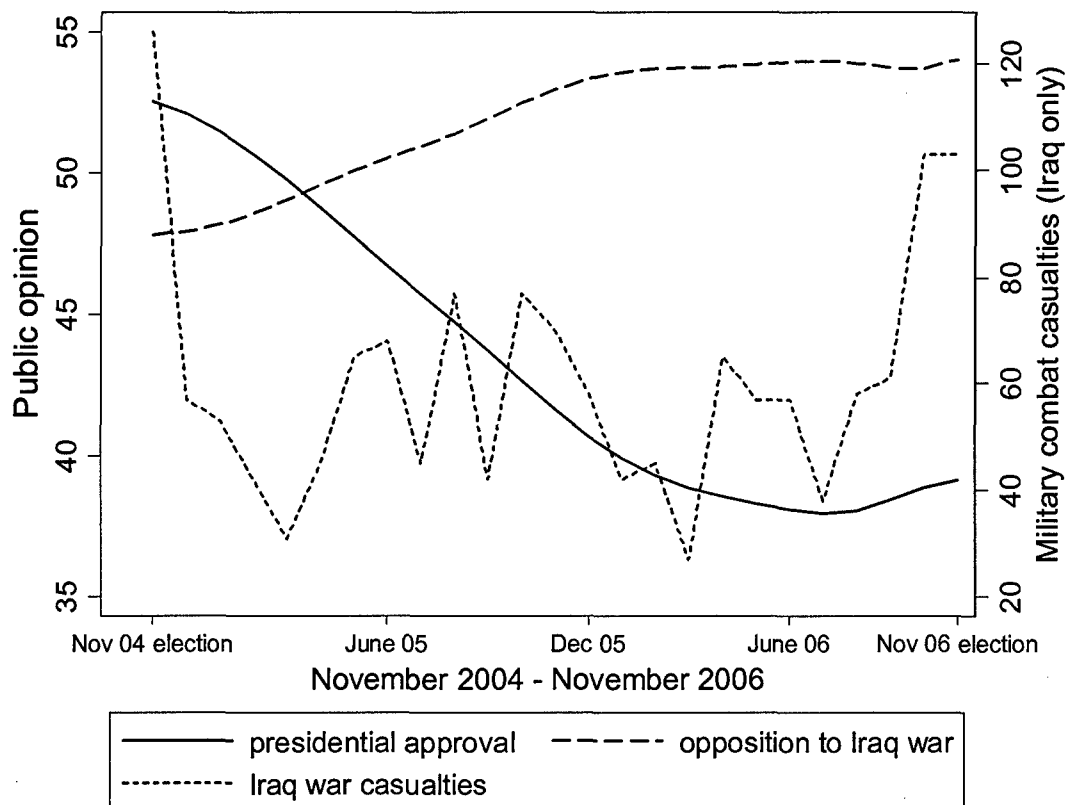
¹¹³ For instance, 61% "oppose the war in Iraq" (CNN poll, Nov 3-5, 2006, N = 1008 adults nationwide, margin of error 3%); 55% "think the United States made a mistake in sending troops to Iraq" (USA Today/Gallup, Nov 2-5, 2006, N=1,516 nationwide, margin of error 3%); 53% "think the United States was wrong in going to war with Iraq" (Time poll, Nov 1-3, 2006, N=1,203, margin of error 3%). Polling data collected from various national polls of the American public, and available through www.pollingreport.com.

¹¹⁴ General George Casey, quoted in the Washington Post: "Make no mistake about it: We are in a tough fight here in the center of the country and in Anbar province... I think [we] can put Iraq in a very good place in 12 months... Now, do we need more troops to do that? Maybe." (Ellen Knickmeyer, "More U.S. Troops may be Iraq-bound," *Washington Post*, 25 October 2006).

¹¹⁵ See, for instance, Anne Plummer Flaherty, "Democrats to Force Change in Iraq Policy," *Associated Press*, 10 November 2006; Yochi J. Dreazen, Jay Solomon and Robert Block, "Democrats Poised to Flex New Muscles," *Wall Street Journal*, 10 November 2006; Richard B. Schmidt and Richard Simon, "Democrats are set to Subpoena," *Los Angeles Times*, 10 November 2006.

predicted to influence one form of congressional activity – the oversight function as indicated by committee hearings.

Figure 7.1 Public opinion and combat casualties:
November 2004 – November 2006 election



The two opinion plots employ a statistical “smoothing” procedure, designed to reflect general trends over a particular time period. As such, they are best interpreted to mean that, overall, President Bush’s approval ratings fell from November 2004 to November 2006, while opposition to the Iraq war generally rose.¹¹⁶ The casualty data, plotted on the right side of the graph indicates the total number of American military

¹¹⁶ Presidential approval data is adapted from the Gallup Poll, compiled by Gerhard Peters, and acquired through the American Presidency Project website (<http://www.presidency.ucsb.edu/data/popularity.php>). Opposition to the Iraq war indicates percentage of respondents who “think the United States made a mistake in sending troops to Iraq,” (USA Today/Gallup poll, Nov 2-5, 2006, N=1,516 nationwide, margin of error 3%);

personnel killed per month. As Figure 7.1 indicates, the bookend months of November 2004 and October 2006 witnessed casualty rates significantly higher than normal. However, the overall rate itself reveals two sobering factors: first, American servicemen and servicewomen fell at a rate well above one-per-day; and second, this occurred over a two-year period. Thus, the same plot reflects two key variables in the earlier analysis: casualties and duration.

Returning for a moment to the earlier study of congressional activity, the dependent variable in Chapter Six was operationalized via congressional hearings regarding particular military operations. Table 6.2 indicates the strong effects both the duration of a conflict and the numbers of casualties have on the number of hearing days per month. As casualties increase and a military endeavor drags on, committee chairs seem to increasingly pay attention to the conflict. In addition, the public opinion variable displayed in Table 6.2 reflects survey respondents citing foreign policy issues as the "most important" currently facing the nation, and a larger value there is also associated with increasing oversight activity. Given the results of Chapter 6, then, and the direction of the indicators in Figure 7.1, one should expect an increase in hearings on the Iraq War.

In addition, the various trends reflected in Figure 7.1 point directly to one of the strongest indicators of congressional action during a military operation. As mentioned, exit polls during the 2006 midterm elections directly tied the transfer of congressional control from Republican to Democratic hands to the interactive effect of a lengthy conflict, rising casualties, and dwindling support for both the war and the president. And given the evidence displayed in Table 6.2, one could expect the current change from

unified to divided government to translate into an additional week of hearings over the course of the conflict in the next congressional session.

Judging by the pledges of national security leaders in the newly selected congressional majority, the 110th Congress will likely witness an increase in congressional activity designed to confront the president on the conflict in Iraq. The chairman of the House Armed Services Committee promised increased oversight through the resurrected subcommittee on oversight and investigations.¹¹⁷ The same day, his incoming Senate counterpart suggested that a resolution containing congressional demands for a phased withdrawal would be considered.¹¹⁸

The "Middle" Analysis: the Duration of Military Operations

The Chapter Five analysis of factors affecting the duration of military operations represents the empirical midpoint of this project. Having found little evidence of a direct congressional role in determining when military force is used, the search for congressional influence turned, in that chapter, to the ex post arena, and the ability of Congress to shape the actual operation by helping determine its length. As just mentioned, given the context of the current conflict in Iraq, one would expect congressional oversight activity to increase, perhaps significantly. Should one, however, expect this, or any, congressional activity to affect the duration of the conflict? To suggest an answer, I first discuss the Chapter Five results in light of the changes wrought by the 2006 midterm elections and the Iraq war. Then, though the two situations are far

¹¹⁷ Ike Skelton (D-MO) stated soon after the 2006 midterm elections that reforming the subcommittee would be one of his first acts upon assuming the committee chairmanship (Richard B. Schmitt and Richard Simon, "Democrats are Set to Subpoena," *Los Angeles Times*, 10 November 2006).

¹¹⁸ Carl Levin (D-MI) "indicated that [a resolution] could describe the requirements for continued American military commitment to Iraq, and some specified number of months for its duration. 'At the end of this time period, we would be gin the reduction of American forces,' Mr. Levin said..." (Carl Hulse and Thom Shanker, "Democrats, Engaging Bush, Vow Early Action on Iraq," *New York Times*, 11 November 2006).

from identical, a brief description of the Reagan administration's experience in Lebanon highlights possible steps available to a congressional body intent on influencing participation in an ongoing conflict, as well as the substantive limits of such action.

In Chapter Five, several political, domestic, and international factors were predicted to affect the duration of various American military operations from the end of World War Two through the mid-1990s. Duration models of major uses of force indicated that Congress may hold some measure of indirect influence regarding the president's decision to prolong or curtail a particular use of force. Divided government, the ability and willingness to withhold part of a president's defense annual budget request, and more conservative national security leaders in Congress are all associated with shorter conflicts.¹¹⁹ Certainly the changeover in congressional power with the 110th Congress' arrival provides an interesting test of the effect of divided government. At the same time, the conflict in Iraq has experienced an upsurge in casualties, and the new majority party in Congress has pledged to push for phased withdrawals of troops.

If troops are drawn down, many will likely hail a resurgence of congressional influence; however, those familiar with another oft-cited example of congressional assertiveness may caution against attributing too much to political factors. When President Regan redeployed American Marines in Beirut, Lebanon in 1983, he did so having signed a congressional resolution authorizing military operations for an 18-month period, an apparent limitation on the president's unilateral powers as commander in

¹¹⁹ Recall that the situational factors tested in the Chapter 5 analysis, with the exception of operations undertaken while U.S. troops are engaged in other wars, did not seem to affect the duration of the use of force. Given the historical record of relative futility regarding Congress' ability to directly shorten uses of force, it seems odd that situational factors do not play a more significant role. As mentioned in Chapter 5, though, the difficulty in measuring certain aspects of progress in military operations may conceal the effect of factors such as casualties or strategic setbacks

chief.¹²⁰ Closer analysis, however, indicates that this legislative act probably affected the president's policy choices less than other factors.

Certainly the circumstances are not interchangeable. The elections of 1982 followed a typical midterm path by reversing some of the Republicans' 1980 congressional gains – though not as badly as predicted (Jacobson 2001) – and while the Democrats boosted their margin in the House to over 100 seats, the Republicans actually increased their advantage in the Senate. Both economic indicators and the president's approval ratings improved throughout the course of the year.¹²¹ Thus, President Reagan's relative political situation in 1983 was not as tenuous as that facing George W. Bush in late 2006.

However, as mentioned, Congress was able to extract from the president a compromise on the deployment of U.S. Marines to Lebanon. Senate Joint Resolution (S.J. Res.) 159, among other things, contained the statement that "Congress determines" that the requirements of section 4(a)(1) of the War Powers Resolution came into effect on August 29, 1983, when two Marines were killed in Lebanon (Congressional Quarterly Almanac 158). This section of the resolution is crucial, because it "starts the clock" on the 60-to-90-day limit for military operations without congressional approval. However, as part of the compromise Congress had, in this case, agreed to extend the authorizing period to 18 months. Even so, when he signed the joint resolution President Reagan

¹²⁰ See Fisher (2004) and Blechman (1990) for brief descriptions and analyses of this operation, and the 1983 *Congressional Quarterly Almanac*, 155-158, for a detailed discussion of congressional action.

¹²¹ The unemployment rate fell nearly two points over the course of the year while inflation ended the year about one-and-a-half points higher than its low point during the year. As unemployment fell, so too did the number of respondents declaring "the economy" to be the nation's most important problem. Meanwhile, President Reagan saw his approval numbers rise throughout 1983, from a low of 37% in January to nearly 55% by the end of the year

expressed the traditional presidential view of disavowing the constitutionality of the War Powers Act, and claiming constitutional authority to deploy military forces.

The compromise ultimately reflected the conflict between three distinct political actors. First, the president, seeking autonomy as commander-in-chief, but desiring congressional support as an indicator of national unity. Recall, President Reagan had deployed troops to Lebanon over a year prior to the agreement on S J Res. 159. So the president's unilateral powers had already changed the status quo to whether Congress, in choosing a position on the specific issue, would support the troops already on the ground or not. At its most basic level, the current debate over Iraqi policy also hinges on this key issue.¹²²

In a nod to this new status quo, as well as its own relative impotence, Congress passed legislation earlier in 1983 demanding the president seek congressional approval for any *further* expansion of the mission in Beirut. The battle over the compromise legislation several months later seems in retrospect to have been waged by two groups of legislators with differing agendas. On the one hand, a majority of Democrats in both houses saw the struggle in "Tonkin Gulf" terms, and resisted any agreement providing the impression of a "blank slate" for the president. At the same time, congressional leadership, including House Speaker Tip O'Neill, focused on the War Powers Resolution, seeking an agreement that would require the president to recognize and follow that legislation's reporting requirement and operational time limits.

¹²² Of course, opponents of the conflict in Iraq may have a safety net of sorts, to protect them from accusations of "abandoning the troops." Hearings in the 110th Congress will no doubt highlight failures on the part of the Bush Administration to provide, in various ways, for the security and safety of troops deployed in Iraq.

In the end, the compromise passed despite the opposition of a majority of House and Senate Democrats, as well as amendments – both defeated – in both chambers calling for troop withdrawals within months unless the president reported to Congress in keeping with the War Powers Resolution. The bombing of Marine barracks in Beirut only a few weeks later marked the beginning of a shift in President Reagan's policy towards Lebanon, and he ultimately announced the withdrawal of troops in March of 1984.

Regarding Lebanon and the 18-month compromise, one would be hard-pressed to consider this a case of congressional constraint. In fact, the aggressive work by congressional leadership to head off various Democratic challenges to the compromise seems to demonstrate that, in light of a potential constitutional showdown over war powers, the compromise represented as good an outcome as Congress could hope for. The majority of Democrats in the House who wanted to see the operation end came up against the reality of a Republican-controlled Senate and potential veto-wielding president.

The institution achieved some recognition of its role, but ultimately without substantively affecting the president's autonomy. Any tough votes on directly constraining the president by cutting off support for the operation were shifted a year-and-a-half into the future. When the military operation escalated and casualties mounted, the Reagan administration announced its termination of U.S. participation in the peacekeeping process in March 1984. True, congressional calls for the withdrawal after the attack on the Marines barracks sent a clear message to the president that further congressional support might be hard to guarantee. In the end, however, casualties and the "dragging on" duration of the conflict, with unpleasant options for resolving the situation,

almost certainly contributed more to the decision to withdraw than concern over future congressional support. With similar factors present regarding the conflict in Iraq, the withdrawal of troops during the 110th Congress will likely owe more to continuing

The "First" Analysis: The Decision to Employ Military Force

This project began with several historical statements by members of Congress concerning the constitutional authority to initiate military activity. The comments suggested that the congressional concern over asserting, or reasserting, authority in the war powers arena is a common theme throughout American history. With the statistical study in Chapter Four providing scant evidence for a direct congressional role in determining when the nation's military forces are employed, it seems that another set of political statements aptly sums up the current balance of power between the president and Congress in this crucial policy area:

In these circumstances I have ordered United States air and sea forces to give the Korean Government troops cover...¹²³

Authority for some of the actions which might be required would be inherent in the authority of the Commander-in-Chief. Until Congress can act I would not hesitate, so far as my Constitutional powers extend, to take whatever emergency action might be forced upon us...¹²⁴

I...therefore directed air action against gun boats and supporting facilities used in these hostile operations. This air action has now been carried out with substantial damage to the boats and facilities. Two US aircraft were lost in the action.¹²⁵

Yes, sir, Mr. Smith, the legal justification is the one that I have given, and that is the right of the President of the United States under the Constitution to protect the lives of American men. That is the legal justification.¹²⁶

¹²³ President Truman: *Statement on the Situation in Korea*, July 27, 1950, (Woolley and Peters [online]).

¹²⁴ President Eisenhower: *Special Message to the Congress Regarding United States Policy for the Defense of Formosa*, January 24, 1955 (Woolley and Peters [online]).

¹²⁵ President Johnson: *Special Message to the Congress on U.S. Policy in Southeast Asia*, August 5, 1964. (Woolley and Peters [online]). Note: this message occurred prior to the passage of the Tonkin Gulf Resolution.

¹²⁶ President Nixon, responding to a question from reporter Howard K. Smith, who asked "Do you have a legal justification to follow that policy [continued military operations in Vietnam] one the Tonkin Gulf

This operation was ordered and conducted pursuant to the President's constitutional Executive power and his authority as Commander-in-Chief of the United States Armed Forces¹²⁷

This operation was ordered and conducted pursuant to the President's powers under the Constitution as Chief Executive and as Commander-in-Chief of the United States Armed Forces, expressly recognized in Section 8(d) (1) of the War Powers Resolution.¹²⁸

This deployment of the United States Armed Forces to Lebanon is being undertaken pursuant to the President's constitutional authority with respect to the conduct of foreign relations and as Commander-in-Chief of the United States Armed Forces¹²⁹

And that is why I directed our Armed Forces to protect the lives of American citizens in Panama and to bring General Noriega to justice in the United States. I contacted the bipartisan leadership of Congress last night and informed them of this decision, and after taking this action.¹³⁰

I have directed U.S. armed forces to participate in these operations pursuant to my constitutional authority as Commander in Chief.¹³¹

As I stated in my previous reports, it is not possible to know at this time either the duration of combat operations or the scope and duration of the deployment of U.S. Armed Forces necessary to counter the terrorist threat to the United States. I will direct additional measures as necessary to exercise our right to self-defense and to protect U.S. citizens and interests. Such measures may include short notice deployments of special operations and other forces for sensitive operations in various locations throughout the world.¹³²

Resolution is dead?" *A Conversation with the President About Foreign Policy*, July 1, 1970 (Woolley and Peters [online]).

¹²⁷ President Ford: *Letter to the Speaker of the House and the President Pro Tempore of the Senate Reporting on United States Actions in the Recovery of the SS Mayaguez*, May 15, 1975 (Woolley and Peters [online]).

¹²⁸ President Carter: *Letter to the Speaker of the House and the President Pro Tempore of the Senate Reporting on the Rescue Attempt for American Hostages in Iran*, April 26, 1980. (Woolley and Peters [online]).

¹²⁹ President Reagan. *Letter to the Speaker of the House and the President Pro Tempore of the Senate on the Deployment of United States Force in Beirut, Lebanon*, August 24, 1982. (Woolley and Peters [online]).

¹³⁰ President G.H.W. Bush: *Address to the Nation Announcing United States Military Action in Panama, December 20, 1989* (Woolley and Peters [online]).

¹³¹ President Clinton: *Letter to Congressional Leaders Reporting on the No-Fly Zone over Bosnia*, April 13, 1993 (Woolley and Peters [online]).

¹³² President G.W. Bush: *Letter to Congressional Leaders Reporting on the Deployment of Forces in Response to the Terrorist Attacks of September 11*, September 20, 2002 (Woolley and Peters [online]).

While these excerpts do not encapsulate the entire relationship between each of these presidents and the corresponding Congress, they do stand as a fairly powerful indicator of the consistency of the relationship. They also suggest quite strongly where power resides regarding the decision to use military force. Each of these ten statements, from the ten post-World War Two presidents, reflects, in each situation, a newly established status quo. Each recognizes a Congress on the defensive, forced to react to circumstances altered, or continued, by the specific actions of the president.

How do these statements, the relational dynamics they represent, and the findings of this study relate to the current political environment? As mentioned, unlike the investigations of conflict duration (Chapter Five) and congressional activity (Chapter Six), the models of the decision to use force (Chapter Four) revealed no evidence of direct congressional influence on the president. Whether party control was unified or not had no discernible effect on the likelihood that president would choose to use force. Nor, tellingly, did involvement in major wars seem to affect whether presidents chose to employ force elsewhere. What consistently proved significant was violence against American citizens or interests, as well as the number of actors involved in a particular crisis. Given the nature of the post-9/11 U.S. foreign policy strategy, including a professed and demonstrated willingness to employ force preemptively, one would expect at least the first of those variables to remain a key determinant of American military activity.

Congressional leaders promising to address various aspects of the current U.S. military role in Iraq and elsewhere would do well to pay attention to the indirect influence available in this arena. The analysis in Chapter Four provides evidence that

such long-term congressional-presidential decisions as troop deployment and foreign aid affect the decision to use force. Therefore, rather than legislation demanding immediate troop withdrawals,¹³³ opposition leaders in Congress may want to consider their indirect influence – less immediately gratifying, no doubt, but perhaps ultimately more effective. If, however, Congress insists on confronting the president, Figure 7.2 reflects one possible outcome.

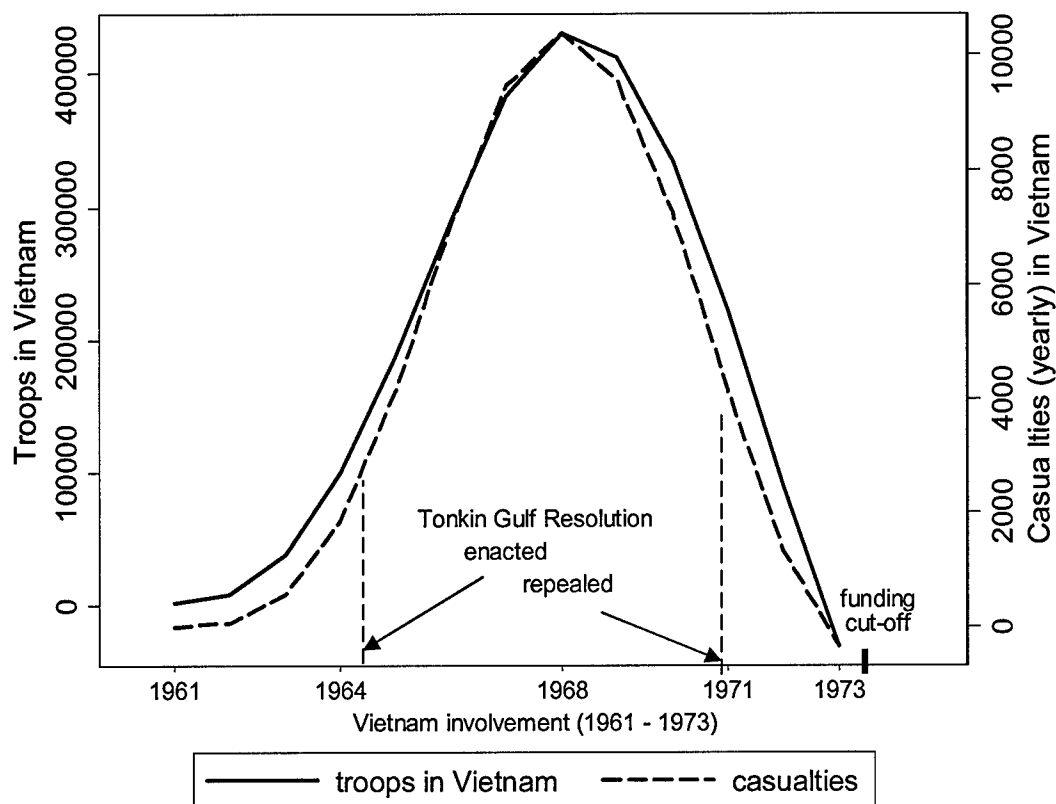
The graph depicts the level of troops, and almost perfectly corresponding casualty rate, for U.S. involvement in Vietnam. The important aspect of this graph regarding congressional-presidential relations is suggested by the arrows indicating the enactment and repeal of the Tonkin Gulf Resolution.¹³⁴ The graph shows that the repeal of the resolution, though no doubt an important symbolic action for some in Congress, is associated with neither the start nor the end of the gradual withdrawal from Vietnam. Rather, troop levels had been falling since their peak in 1968, and would continue to fall through 1973. Finally, as indicated in the lower right corner of the graph, the move by Congress to deny funding for any further combat activity in Southeast Asia, while a significant and clear cut example of the “power of the purse,” did not occur until U.S.

¹³³ “Democrats say they hope election gains would provide momentum for more than the fall of Rumsfeld. First stop next year will be legislation calling for an undetermined number of troops to come home immediately” (Anne Plummer Flaherty, “Dems Plan to Force Change in Iraq Policy,” *Associated Press*, 9 November 2006).

¹³⁴ H.J. Res. 1145, the Tonkin Gulf Resolution (P.L. 88-408), passed August 5, 1964 and was repealed January 12, 1971. The resolution stated, in part,

...the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression...this resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.

Figure 7.2 Troop and casualty levels during the Vietnam War



involvement in Vietnam was already essentially over.¹³⁵ President Johnson initiated direct combat operations in 1964, and then repeatedly referenced the Tonkin Gulf resolution and congressional appropriations as support for continuing operations. The war in Iraq, also begun and directed by a president citing congressional authorization, approaches the fourth anniversary of its initiation, with promises of change from a newly elected Democratic majority. Evidence suggests, however, that the same institution that chose to begin the war will ultimately determine when it ends.

¹³⁵ H.R. 9055 (P.L. 93-50), the supplemental appropriations bill for FY 1973, stated in part, "None of the funds herein appropriated under this Act may be expended to support directly or indirectly combat activities in or over Cambodia, Laos, North Vietnam, South Vietnam ... by United States forces, and after August 15, 1973, no other funds heretofore appropriated under any other Act may be expended for such purpose" (H.J.Res. 636 (P.L. 93-52) for FY 1974 contained almost identical language).

Conclusion

The results of this project suggest three broad conclusions, regarding theoretical conceptualization, practical congressional influence, and implications for further research. Theoretically, Chapters One and Two suggested the use of principal-agent theory as a way to describe, explain, and ultimately predict aspects of the congressional-presidential relationship. In the end, however, while elements of principal-agent theory certainly mark this policy area, Congress' performance in the role of principal suggests that an extension or substitution of the theory is likely necessary to more explicitly understand and model this relationship.

First of all, regarding description, the notion of "institutionalized delegation," whereby the Constitution assigns the roles of agent to the president and principal to Congress, does not adequately allow for the type of *ex ante* influence necessary for Congress to constrain the president. Rather than an agent beholden to the principal via a clear contractual obligation, the president and Congress exist within Neustadt's (1990) concept of "separate institutions sharing powers." Though the founders may not have anticipated the specific dynamics of the modern war powers relationship, it seems likely that they intended for the same tenuous balance of ambition and powers to mark both domestic and foreign policy.

As for explanation, principal-agent theory does not seem to adequately account for the willingness of the principal in the war powers relationship to defer almost complete authority to the agent. Under a typical principal-agent arrangement, the agent's autonomy and discretionary behavior exists within the general confines of the original contractual agreement. If the agent strays from the preexisting shared objectives, the

principal pursues initiatives to correct and reorient discretionary behavior to the principal's goals. The problem with the war powers relationship lies in the persistent unwillingness and inability of Congress to constrain the president. And that unwillingness may have as much to do with other principals in the game as with the agent's discretionary tendencies. Both the president and Congress serve separate, at times competing, principals in terms of their various constituencies. Much as Putnam's (1988) leader must work to please actors at both levels of the foreign policy game, so too must Congress and the president take sometimes conflicting positions to satisfy different constituents.

Finally, in terms of prediction, the last chapter suggested that certain congressional actions – ideally designed to constrain and influence the president – should increase given the results of the 2006 midterm elections. However, the most likely long-term outcome of these actions by the principal will be to highlight how, even as Congress occasionally overcomes collective action problems and acts to confront the president, the president continues to act largely unconstrained.

In terms of practical congressional influence, then, we may ultimately gain more leverage from a framework based less on specific control of the president, and more on strategic balancing of immediate constituent preferences and long-term political decisions. We have seen how policy involving foreign aid and the deployment of troops – the types of policy decisions made in a more leisurely pace that favors (or at least includes) Congress – seem to affect certain decisions regarding the use of force. Additionally, policy preferences of key congressional national security leaders may be heard and heeded by the president. It seems, then, that a meaningful role may exist for

Congress in the war powers arena. To see it, however, scholars (and perhaps members of Congress) should probably look in unexpected, less direct areas.

Finally, this project suggests numerous avenues for further understanding this most crucial policy area. First, while the appropriations process, as specified, yielded little evidence of congressional influence, the constitutional importance of this authority, as well as the fact that Congress revisits the defense budget annually, both highlight the potential explanatory benefits of this conceptual area. Further research should focus on parsing the immense defense budget into more meaningful, more manageable, statements concerning the importance of certain aspects of the president's defense policy, as well as Congress' relative support or opposition.

Congressional hearings represent another excellent source of information regarding congressional support for the president's national security policy. As with the defense budget, however, event counts of hearing days or report pages provide an account of congressional action that is almost certainly too blunt to detect specific signals from Congress to the president. The number of hearing days in a certain period, for instance, tells us little of the tone of the testimony. Further research should include careful analysis of hearing reports and transcripts, to determine when Congress questions or challenges the executive branch over military operations, rather than simply supporting or listening passively. Content analysis could provide much richer evidence of when Congress confronts with purpose.

Additionally, following the concept of competing principals to at least one logical conclusion should lead scholars to question the relative importance presidents put on use of force issues versus domestic programs. Several references in this project to the

Johnson Administration indicate the serious concern and resentment President Johnson felt towards those who, through their disagreement over the Vietnam War, threatened his more prized Great Society programs. An important part of a president's decision calculus, affecting both the decision to send troops into conflict as well as decisions affecting conduct of the operation, involve domestic programs. Presidents more intent on achieving great domestic policies may be less willing to risk confrontation with Congress over military operations in far off regions.

Finally, the latter stages of this project revealed how little data exists on U.S. military capabilities pertaining to specific crises and uses of force. While the Blechman and Kaplan (1978) data clearly differentiates between levels of force employed, I found very little data concerning the capability of U.S. forces at the time the decision to use force was made. To this end, future research would benefit from a clearer picture of the options available to presidents as they consider whether or not to use military force. Focusing on the executive branch, such information would likely highlight institutional dynamics within the national security apparatus. Regarding Congress, such specific information, as with the defense budget, would more clearly delineate between largely ineffective short-term authority, and the long-term, big-picture impact that Congress has, and can have, in the arena of war powers politics.

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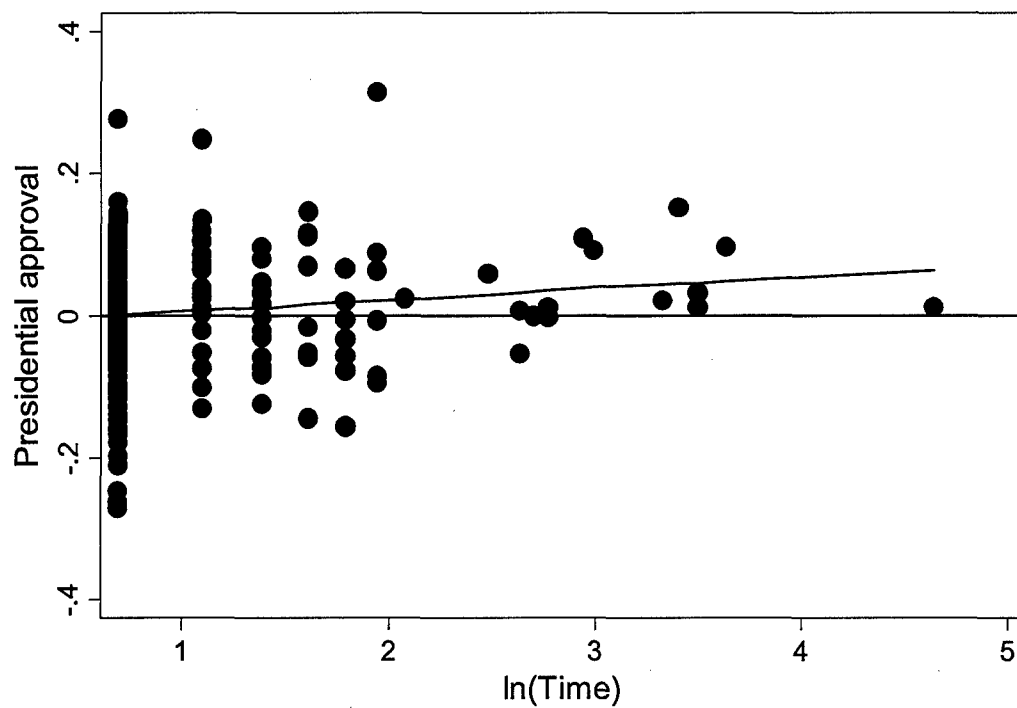
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Appendix A

As mentioned in Chapter Five, an important consideration when testing duration models is whether the proportional hazards assumption is met. In the models tested in Chapter Five, the withdrawal of American troops from a military operation comprises the “failure” time for the particular case. The proportional hazards assumption states that the effect of time varying covariates on the duration of each case occurs in a constant manner over time. Box-Steffensmeier and Zorn (2001) argue that, not only does violation of this assumption lead to “biased coefficient estimates and decreased power of significance tests” (974), but also that “proportionality in covariate effects is quite likely to be the exception rather than that rule” (985). Of the time varying covariates in this duration model, one in particular seems likely to vary depending on the duration of the particular military operation. All else being equal, public approval of the president is expected to rise initially, but decline as the rally effect wears off and the public tires of military conflict. Though one would expect this primarily regarding major uses of force, I investigate the presence of nonproportionality in the model of all uses of force as well.

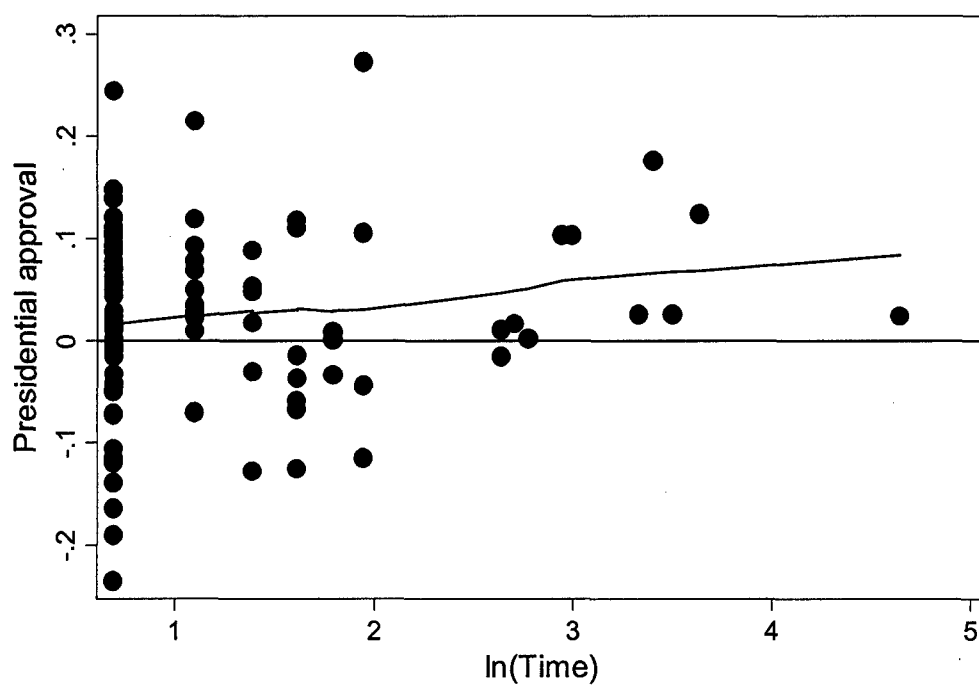
To test for nonproportionality, I first run Cox’s proportional hazard models, testing the effect of various congressional, domestic, and international variables on the duration of U.S. military operations, both total operations and major uses only. I then plot rescaled Schoenfeld (1982) residuals of the presidential popularity variable against the natural log of time, as described in Box-Steffensmeier and Jones (2001). The ideal result is residuals which reflect a “random walk over the range of survival times” (Box-

Figure A.1 Rescaled Schoenfeld Residuals Plotted Against Presidential Popularity



bandwidth = .8

All uses of force



bandwidth = .8

Major uses of force

Steffensmeier and Zorn 2001, 976), thus reflecting “no relationship between an observation’s residual for that covariate and the length of its survival time” (ibid).

As displayed in Figure A.1, presidential popularity in both models has a positive slope, perhaps suggesting that the model as is may underpredict the hazard rate (of an operation ending) early in a military operation, and overpredict the rate later in the conflict. As the residual plots “form the basis for statistical tests of the nonproportionality assumption” (Box-Steffensmeier and Zorn 2001, 977), I next display the results of these tests for non-proportionality: covariate-specific tests (separate tests of the proportional hazard assumption for each covariate in the Cox model) and global Grambsch and Therneau (1994) tests.

In this case, the results reassure that all but one of the time varying covariates in these models have a proportional influence on the likelihood that military action will end at a particular time. As indicated by Table A.1, the χ^2 and p -values for the *Korea/Vietnam War* variable, which indicates the years of U.S. involvement in those conflicts, do not allow us to reject the null hypothesis that the hazard ratios for this variable are constant over time (Box-Steffensmeier and Zorn 2001). However, the steps suggested for dealing with this “offending covariate” indicate that the possible violation of the proportional hazards assumption do not substantively impact the results of the model.¹³⁶

¹³⁶ Box-Steffensmeier and Zorn (2001) suggest including an interaction variable, in this case *Korea/Vietnam War* multiplied by the natural logarithm of time estimating the Cox model

Table A.1: Results of Grambsch and Therneau Nonproportionality Tests

Variable	All uses of force			Major uses of force		
	ρ	χ^2	<i>p</i> -value	ρ	χ^2	<i>p</i> -value
Party Variable	-.03	.24	.63	-.05	.27	.61
Appropriations	.07	1.11	.29	.12	1.54	.22
Hearings	.002	.00	.97	.007	.00	.95
NSL preference	.02	.06	.81	.04	.16	.68
Election	.04	.39	.53	.05	.21	.65
Unemployment	.04	.37	.54	.06	.34	.56
Inflation	.05	.72	.40	.08	.64	.43
Approval	.06	.81	.37	.06	.31	.58
WPR	-.06	.82	.36	-.09	.91	.34
Power ratio	-.02	.06	.80	-.08	.66	.42
Troops	.04	.35	.55	.04	.16	.69
Military aid	-.08	1.51	.22	-.15	2.4	.12
Major use of force	.01	.03	.87	--	--	--
Korea/Vietnam	.17	4.7	.03	.17	2.7	.10
Global test	--	9.35	.81	--	7.12	.896